



भारत का राजपत्र The Gazette of India

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सं. 16]
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NEW DELHI, SATURDAY, APRIL 19, 2003/CHAITRA 29, 1925

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notification Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

मंत्रिमंडल सचिवालय

नई दिल्ली, 7 अप्रैल, 2003

CABINET SECRETARIAT

New Delhi, the 7th April, 2003

का. आ. 1179.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एचडी 51 पीसीआर, 2003 दिनांक 10-03-2003 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से श्री विजय कुमार, बीट पोस्टमैन और श्री नरसिम्हामूर्ति, डाक सहायक, नीलामंगला उप डाकघर, नीलामंगला, जिला बंगलौर के विरुद्ध भ्रष्टाचार निवारण अधिनियम, 1988 की धारा 7 के अधीन दंडनीय अपराधों और उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संसक्त प्रयत्नों, दुष्प्रेरणों और षडयंत्रों तथा उसी संव्यवहार के अनुक्रम में किए गए उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध अथवा अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/24/2003-डीएसपीई (i)]

शुभा ठाकुर, अवर सचिव

S.O. 1179.—In exercise of the powers conferred by Sub-section (1) of Section 5, read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka vide Notification No. HD 51 PCR, 2003 dated 10-3-2003, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under Section 7 of Prevention of Corruption Act, 1988, against Shri Vijaya Kumar, Beat Postman, and Shri Narasimha Murthy, Postal Assistant, Nelamangala Sub Post Office, Nelamangala, Bangalore District and attempts, abetments and conspiracies in relation to or in connection with one or more offences mentioned above and any other offence or offences committed in the course of same transaction arising out of the same facts.

[No. 228/24/2003-DSPE (i)]

SHUBHA THAKUR. Under Secy.

नई दिल्ली, 7 अप्रैल, 2003

नई दिल्ली, 8 अप्रैल, 2003

का. आ. 1180.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एचडी 52 पोसीआर, 2003 दिनांक 10-03-2003 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से (1) श्री सुब्बुरमैयया, महाप्रबंधक (2) श्री के. डी. भट्ट, वित्त निदेशक (3) श्री ए. आर. नाईक, सहायक महाप्रबंधक, सभी भारत संचार निगम लि., कारवार टेलीकॉम जिला, कर्नाटक (4) श्री वी. एन. नाईक, पूर्व डिवाइजनल इंजीनियर, टेलीकॉम मैनेजर, कारवार जिला के विरुद्ध भारतीय दंड संहिता 1860 की धारा 120-बी संपठित धारा 420 तथा भ्रष्टाचार निवारण अधिनियम, 1988 की धारा 13 (2) संपठित धारा 13 (1) (डी) के अधीन दंडनीय अपराधों और उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संसक्त प्रयत्नों, दुष्प्रेरणों और षडयंत्रों और उसी संव्यवहार के अनुक्रम में किए गए उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध अथवा अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/24/2003-डी.एस.पी.ई. (ii)]

शुभा ठाकुर, अवर सचिव

New Delhi, the 7th April, 2003

S. O. 1180.—In exercise of the powers conferred by sub-section (1) of Section 5, read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government, with the consent of the State Government of Karnataka, vide Notification No. HD 52 PCR, 2003 dated 10-3-2003 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under Section 120-B read with 420 of Indian Penal Code, 1860 and Section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988 and any other offence and offences committed in the course of the same transaction or arising out of the same facts against (1) Shri Subburamayya, General Manager, (2) Shri K.D. Bhatt, Director of Finance (3) Shri A. R. Naik, Assistant General Manager, all these from Bharat Sanchar Nigam Limited, Karwar Telecom District, Karnataka and (4) Shri V. M. Naik, Formerly Divisional Engineer, Telecom Manager, Karwar District and attempts/abetments and conspiracies in relation to or in connection with one or more offences mentioned above and any other offence or offences committed in the course of same transaction arising out of the same facts.

[No. 228/24/2003-DSP(E)]

SUBHIA THAKUR, Under Secy.

का. आ. 1181.—केन्द्रीय सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित अधिवक्ताओं को विचारण न्यायालयों में निदेशक, केन्द्रीय अन्वेषण ब्यूरो द्वारा उन्हें सौंपे गए दिल्ली विशेष पुलिस स्थापना (के.अ. ब्यूरो.) द्वारा झारखंड राज्य में संस्थित मामलों के अभियोजन तथा विधि द्वारा स्थापित पुनरीक्षण अथवा अपील न्यायालयों में इन मामलों से उद्भूत अपीलों/पुनरीक्षणों अथवा अन्य विषयों का संचालन करने के लिए विशेष लोक अभियोजक के रूप में नियुक्त करती है :—

1. श्री एस. पी. मिश्रा
2. श्री समर कुमार लाल
3. श्री जगत नारायण सिंह
4. श्री रवि शंकर
5. श्री शिव कांत श्रीवास्तव

[फा. सं. 225/5/2003-डी.एस.पी.ई.]

शुभा ठाकुर, अवर सचिव

New Delhi, the 8th April, 2003

S.O. 1181.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints the following Advocates as Special Public prosecutors for conducting the prosecution of cases instituted by the Delhi Special Police Establishment (CBI) in the State of Jharkhand as entrusted to them by the Director, Central Bureau of Investigation, in the trial Courts and appeals/revisions or other matter arising out of these cases in revisional or appellate Courts established by law.

1. Shri S. P. Mishra
2. Shri Samar Kumar Lal
3. Shri Jagat Narayan Singh
4. Shri Ravi Shankar
5. Shri Shiva Kant Srivastava

[No. 225/5/2003-DSP(E)]

SUBHIA THAKUR, Under Secy.

नई दिल्ली, 8 अप्रैल, 2003

का. आ. 1182.—केन्द्रीय सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित अधिवक्ताओं को राजस्थान राज्य, जयपुर में विचारण न्यायालयों में निदेशक, केन्द्रीय अन्वेषण ब्यूरो द्वारा उन्हें सौंपे गए दिल्ली विशेष पुलिस स्थापना (के.अ. ब्यूरो.) द्वारा संस्थित मामलों के अभियोजन तथा विधि द्वारा स्थापित पुनरीक्षण अथवा अपील न्यायालयों में इन मामलों से उद्भूत अपीलों/पुनरीक्षणों अथवा अन्य विषयों का संचालन करने के लिए विशेष लोक अभियोजक के रूप में नियुक्त करती है :—

1. श्री मुकुट बिहारी शर्मा
2. श्रीमती रंजना चक्रवर्ती

[सं. 225/10/2002-डी एसपीई]

शुभा ठाकुर, अवर सचिव

New Delhi, the 8th April, 2003

S.O. 1182.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints the following advocates as Special public prosecutors for conducting the prosecution of cases instituted by the Delhi Special Police Establishment (CBI) in the State of Rajasthan at Jaipur as entrusted to them by the Director, Central Bureau of Investigation, in the trial Courts and appeals/revisions or other matter arising out of these cases in revisional of appellate Courts established by law.

1. Shri Mukut Bihari Sharma
2. Smt. Ranjana Chakarvorty

[No. 225/10/2002-DSPE]

SUBHA THAKUR, Under Secy.

वित्त एवं कम्पनी कार्य मंत्रालय

(राजस्व विभाग)

आदेश

नई दिल्ली, 25 मार्च, 2003

स्टाम्प

का.आ. 1183.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उप-धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा कोट्स ऑफ इंडिया लिमिटेड, कोलकाता को मात्र चार लाख रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है, जो उक्त कम्पनी द्वारा जारी किए जाने वाले मात्र अस्सी करोड़ रुपये के समग्र मूल्य के कमर्शियल पेपर पर स्टाम्प शुल्क के कारण प्रभार्य है।

[सं 6/2003-स्टाम्प/फा. सं. 33/4/2003-बि. क.]

आर.जी. छाबड़ा, अवर सचिव

MINISTRY OF FINANCE AND COMPANY AFFAIRS
(Department of Revenue)

ORDER

New Delhi, the 25th April, 2003

STAMPS

S.O. 1183.—In exercise of the powers conferred by clause (b) of sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits Coats of India Limited, Calcutta to pay consolidated stamp duty of rupees four lakh only chargeable on account of the stamp duty on Commercial

paper aggregating to rupees eighty crore only, to be issued by the said Company.

[No. 6/2003-STAMP F. No. 33/4/2003-ST]

R.G. CHHABRA, Under Secy.

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 2 अप्रैल, 2003

का.आ. 1184.—यह आम सूचना के लिए अधिसूचित किया जाता है कि निम्नलिखित संस्थान/संघ और इसके नीचे दिए गए इसके कार्यक्रम को आयकर अधिनियम 1961 की धारा 35 सी सी बी के प्रयोजनार्थ आयकर नियमावली, 1962 के नियम 6 एएसी के अन्तर्गत विहित प्राधिकरण होने पर सचिव, पर्यावरण और वन मंत्रालय, भारत सरकार, नई दिल्ली, द्वारा अनुमोदित किया गया है।

संस्थान/संघ का नाम

मैसर्स वनराई

विजय नगर, पुणे-411030

कार्यक्रम

प्राकृतिक संसाधनों का संरक्षण

विहित प्राधिकरण द्वारा दोनों ही अनुमोदन अर्थात् (i) धारा 35 सी सी बी उपधारा (2) के अन्तर्गत संस्थान/संघ को और (ii) धारा 35 सी सी बी की उपधारा (1) के अन्तर्गत कार्यक्रम निम्नलिखित शर्तों के साथ 1-4-2001 से 31-3-2002 तक की अवधि के लिए वैध है।

- (i) मैसर्स वनराई, विजय नगर, पुणे उपर्युक्त इल्लिखित संरक्षण कार्यकलापों के लिए इसके द्वारा प्राप्त दोनों का अलग से लेखा रखेगा।
- (ii) मैसर्स वनराई वित्त वर्ष 2001-2002 के लिए अपने संरक्षण कार्यक्रमों पर किए गए कार्य की प्रगति रिपोर्ट विहित प्राधिकारी को प्रस्तुत करेगा।
- (iii) सोसायटी वर्ष 2001-2002 के लिए कुल आय और देयताओं को दर्शाते हुए वार्षिक लेखा परीक्षित लेखे विहित प्राधिकारी को प्रस्तुत करेगा और इन दस्तावेजों की प्रतिलिपि संबंधित आयकर आयुक्त को भेजेगी।
- (iv) मैसर्स वनराई को 2001-2002 तक की अवधि के लिए लेखा-परीक्षित रिपोर्ट के साथ-साथ प्रगति रिपोर्ट भी विहित प्राधिकारी को शीघ्र प्रस्तुत करनी चाहिए।
- (v) यह अनुमोदन विहित प्राधिकारी की सतत संतुष्टि के अध्वधीन है और यदि आवश्यक समझा गया, इसे भूतलक्षी प्रभाव से वापिस लिया जा सकता है।

[अधिसूचना सं. 76/2003/फा. सं. 203/27/2000-आईटीए-II]

संगीता गुप्ता, निदेशक (आई टी ए-II)

(Central Board of Direct Taxes)

New Delhi, the 2nd April, 2003

S.O. 1184.—It is notified for general information that the Institution/Association mentioned below and its programme given hereunder have been approved by the Secretary, Ministry of Environment and Forests.

Government of India, New Delhi, being the prescribed authority under Rules 6A.C of the Income Tax Rules, 1962, for the purposes of Section 35CCB of the Income Tax Act, 1961.

Name of the Institution/Association

M/s Vanarai
Vijaynagar, Pune—411 030

Programme

Conservation of natural resources.

Both the approvals accorded by the Prescribed Authority namely (i) to the Institution/Association under sub-section (2) of Section 35CCB and (ii) to the programmes under sub-section (1) of Section 35CCB are valid for the period from 1-4-2001 to 31-3-2002 with the following conditions :

- (i) M/s Vanarai, Vijaynagar, Pune, shall maintain a separate account of the donations received by it for its conservation activities mentioned above.
- (ii) M/s Vanarai, Vijaynagar, shall furnish progress report of work done on their conservation programmes to the prescribed authority for the financial year 2001-2002.
- (iii) The Society shall submit to the prescribed authority annual audited accounts report for the year 2001-2002 showing total income and liabilities and a copy of these documents be sent to the concerned Commissioner of Income tax.
- (iv) M/s Vanarai must also submit to the prescribed authority the progress report as well as audited accounts report for the period 2001-2002 at the earliest; and
- (v) The approval is subject to the continued satisfaction of the prescribed authority and may be withdrawn with retrospective effect, if considered necessary.

[Notification No. 76/2003/F. No. 203/27/2000/ITA.II]

SANGEETA GUPTA, Director (ITA.II)

नई दिल्ली, 3 अप्रैल, 2003

(आयकर)

का.आ. 1185 .— सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार अधोलिखित संगठन को उनके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (11) के प्रयोजनार्थ संस्थान श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित करती है :—

- (i) अधिसूचित संस्था अपने अनुसंधान कार्यक्रमों के लिए अलग लेखा बहियों का रख-रखाव करेगा,
- (ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिटर्न प्रत्येक 31 मई को

अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग 'टेक्नोलाजी भवन' न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगा,

- (iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोदित निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यक्रमों के लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संस्था पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडिलटन रॉ, पांचवा तल, कलकत्ता-700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगा।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
	कस्तूरबा हेल्थ सोसाइटी, डाकखाना सेवाम, जिला वर्धा	
	महाराष्ट्र-442102	1-4-2002 से 31-3-2005

टिप्पणी :— अधिसूचित संस्था को सलाह दी जाती है कि वे अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 78/2003/फा. सं. 203/12/2003-आयकर नि.-II]

संगीता गुप्ता, निदेशक (आयकर नि.-II)

New Delhi, the 3rd April, 2003

(Income tax)

S.O. 1185.—It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned against its name, for the purpose of clause (ii) of sub-section (1) of section 35 of the Income tax Act, 1961, read with Rule 6 of the Income Tax Rules, 1962 under the category "Institution" subject to the following conditions :—

- (i) The notified Institution shall maintain separate books of accounts for its research activities;
- (ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhavan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;

- (iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income tax (Exemptions), 10 Middleton Row, 5th Floor, Kolkata-700071, (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income tax/Director of Income Tax (Exemptions), having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income and Expenditure Account in respect of its research activities for which exemption was granted under sub-section (1) of Section 35 of Income Tax Act, 1961 in addition to the return of income tax to the designated assessing officer.

S. No.	Name of the Organisation Approved	Period for which Notification is effective
1.	Kasturba Health Society, P.O. Sevagram, Distt. Wardha, Maharashtra—442 102	1-4-2002 to 31-3-2005

Notes : The notified Institution is advised to apply in triplicates and well in advance for renewal of the approval, to the Central Government through the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction. Three copies of application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 78/2003/F. No. 203/12/2003/ITA-II]

SANGEETA GUPTA, Director (ITA-II)

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 10 अप्रैल, 2003

का.आ. 1186.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 56 के साथ पठित धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर घोषणा करती है कि उक्त अधिनियम की धारा 11 की उपधारा (1) के उपबंध सरकारी राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से 31 मार्च, 2005 तक बैंकी मध्यवर्ती सहकारी बैंक लि. जिला कटक (उड़ीसा) पर लागू नहीं होंगे।

[फा. सं. 1(13)/2003-एसी]

मंगल मराण्डी, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 10th April, 2003

S.O. 1186.—In exercise of the powers conferred by Section 53 read with Section 56 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government on

recommendation of the Reserve Bank of India declares that the provisions of sub-section (1) of Section 11 of the said Act shall not apply to the Banki Central Co-operative Bank Ltd., District Cuttack (Orissa) from the date of publication of this notification in the Official Gazette to 31 March, 2005.

[F. No. 1(13)/2003-AC]

MANGAL MARNDI, Under Secy.

नई दिल्ली, 10 अप्रैल, 2003

का.आ. 1187.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 56 के साथ पठित धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर घोषणा करती है कि उक्त अधिनियम की धारा 11 की उपधारा (1) के उपबंध सरकारी राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से 31 मार्च, 2005 तक अस्का सहकारी मध्यवर्ती बैंक लि., अस्का (उड़ीसा) पर लागू नहीं होंगे।

[फा. सं. 1(14)/2003-एसी]

मंगल मराण्डी, अवर सचिव

New Delhi, the 10th April, 2003

S.O. 1187.—In exercise of the powers conferred by Section 53 read with Section 56 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government on recommendation of the Reserve Bank of India declares that the provisions of sub-section (1) of Section 11 of the said Act shall not apply to the Aska Co-operative Central Bank Ltd., Aska (Orissa) from the date of publication of this notification in the Official Gazette to 31 March, 2005.

[F. No. 1(14)/2003-AC]

MANGAL MARNDI, Under Secy.

मानव संसाधन विकास मंत्रालय

(माध्यमिक और उच्चतर शिक्षा विभाग)

नई दिल्ली, 31 मार्च, 2003

का. आ. 1188.—ओरोविले प्रतिष्ठान अधिनियम, 1988 (1988 का 54), की धारा 12 के साथ पठित धारा 11 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा 11 मार्च, 2003 से निम्नलिखित व्यक्तियों को चार वर्ष की अवधि के लिए ओरोविले प्रतिष्ठान के शासी बोर्ड का सदस्य नामित करती है।

1. डॉ. किरिट जोशी
36, तुगलकाबाद इंस्टीट्यूशनल एरिया,
एम.बी. रोड,
नई दिल्ली-110062
2. डॉ. एल.एम. सिंघवी,
18, वेलिंगटन क्रेसेंट,
नई दिल्ली-110001

3. डॉ. डी.पी. चट्टोपाध्याय,
फ्लैट नं. 25, पार्क मेन्सन,
57, पार्क स्ट्रीट,
कोलकाता-700016
 4. डॉ. सुभाष कश्यप,
डी-298, सर्वोदय एन्क्लेव,
नई दिल्ली-110017
 5. डॉ. मीरा श्रीवास्तव,
89, अरविंदो न्यास,
टैगोर टाउन,
इलाहाबाद-211002
 6. श्री रोजर एंगर (ओरोविले निवासी),
ओरोविले फाउंडेशन,
तमिलनाडु-605101
 7. श्रीमती ज्योति मधोक,
डी-991, न्यू फ्रेंड्स कालोनी,
नई दिल्ली-110065
 8. श्री बी.के. पिपरसेनिया, (पदेन)
(संयुक्त सचिव और वित्त सलाहकार),
माध्यमिक और उच्चतर शिक्षा विभाग,
नई दिल्ली
 9. श्री च. बालाकृष्णन, (पदेन)
[संयुक्त सचिव (आयोजना)]
माध्यमिक और उच्चतर शिक्षा विभाग,
नई दिल्ली
2. इसके अतिरिक्त डॉ. किरिट जोशी 11 मार्च, 2003 या अगला आदेश होने तक जो भी पहले हो, तीन माह की अवधि के लिए बोर्ड के अध्यक्ष के रूप में कार्य करेंगे।

[सं. एफ-27-50/2002-यू.यू.]

च. बालाकृष्णन, संयुक्त सचिव

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Secondary & Higher Education)

New Delhi, the 31st March, 2003

S.O. 1188.—In exercise of the powers conferred by Section 11 read with Section 12, of the Auroville Foundation Act, 1988 (54 of 1988), the Central Government hereby nominates the following persons as members of the Governing Board of the Auroville Foundation for a period of four years, with effect from 11th March, 2003.

1. Dr. Kireet Joshi,
36, Tuglakabad Institutional Area,
MB Road,
New Delhi-110062.
2. Dr. L.M. Singhvi,
18, Willingdon Crescent,
New Delhi-110001.

3. Dr. D.P. Chattopadhyaya,
Flat No. 25, Park Mansion,
57, Park Street,
Kolkata-700016.
4. Dr. Subhash Kashyap,
D-298, Sarvodya Enclave,
New Delhi-110017.
5. Dr. Meera Srivastava,
89, Aurobindo Nyas,
Tagore Town,
Allahabad-211002
6. Mr. Roger Anger,
(Resident of Auroville),
Auroville Foundation,
Tamil Nadu-605101.
7. Smt. Jyoti Madhok,
D-991, New Friends Colony,
New Delhi-110065.
8. Shri V.K. Pipersenia (Ex-Officio)
(Joint Secretary & FA),
D/o Secondary & Higher Education,
New Delhi.
9. Shri C. Balakrishnan (Ex-Officio)
[Joint Secretary (Plg.)]
D/o Secondary & Higher Education,
New Delhi.

2. Further, Dr. Kireet Joshi will function as the Chairman of the Board for a period of three months, with effect from 11th March, 2003 or till further orders, whichever is earlier.

[No. F-27-50/2002-U.U.]

C. BALAKRISHNAN, Jt. Secy.

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 31 मार्च, 2003

का.आ. 1189.—रेल मंत्रालय (रेलवे बोर्ड), राजभाषा नियम 1976 (संघ के शासकीय प्रयोजनों के लिए प्रयोग) के नियम 10 के उपनियम (2) और (4) के अनुसरण में उत्तर रेलवे के लखनऊ मंडल के निम्नलिखित स्टेशनों तथा दक्षिण रेलवे के तिरुवनंतपुरम मंडल की वाणिज्य शाखा को, जहां 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करता है :—

उत्तर रेलवे (लखनऊ मंडल)

1. चारबाग लखनऊ स्टेशन
2. खेतसराय स्टेशन
3. उन्नाव स्टेशन
4. गौरीगंज स्टेशन
5. जायस स्टेशन

6. फुरसत गंज स्टेशन
7. देवराकोट स्टेशन
8. बिलवई स्टेशन
9. अजगैन स्टेशन
10. सोनिक स्टेशन
11. शाहगंज स्टेशन
12. सोहावल स्टेशन
13. पटरंगा स्टेशन

दक्षिण रेलवे

(तिरुवनंतपुरम मंडल)

14. वाणिज्य शाखा

[सं. हिंदी 2001/रा.भा. 1/12/2]

राजीव रंजन जारुहार, सचिव, रेलवे बोर्ड

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 31st March, 2003

S.O. 1189.—Ministry of Railways (Railway Board), in pursuance of Sub Rule (2) and (4) of Rule 10 of the Official Language Rules, 1976 (use for the official purposes of the Union) hereby, notify the following Stations of Lucknow Division of Northern Railway and Commercial Branch of Thiruvananthapuram Division of Southern Railway, where 80% of the officers/employees have acquired the working knowledge of Hindi.

Northern Railway (Lucknow Division)

1. Charbagh Lucknow Station
2. Khetasarai Station
3. Unnao Station
4. Gauriganj Station
5. Jais Station
6. Fursatganj Station
7. Deorakot Station
8. Bilwai Station
9. Ajgain Station
10. Sonik Station
11. Shahganj Station
12. Sohawal Station
13. Patranga Station

Southern Railway

(Thiruvananthapuram Division)

14. Commercial Branch

[No. Hindi-2001/OL-1/12/2]

R. R. JARUHAR, Secy., Railway Board.

शहरी विकास और गरीबी उपशमन मंत्रालय

(दिल्ली प्रभाग)

नई दिल्ली, 2 अप्रैल, 2003

का.आ. 1190.—दिल्ली विकास अधिनियम, 1957 (1957 का 61) की धारा 3 की उप-धारा (3) के खंड (छ) के साथ पठित उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा श्री बी.एस. लल्ली, सदस्य-सचिव, राष्ट्रीय राजधानी क्षेत्र योजना बोर्ड को श्री ए.के. झा के स्थान पर दिल्ली विकास प्राधिकरण के सदस्य के रूप में नामित करती है और भारत सरकार स्वास्थ्य मंत्रालय की दिनांक 30-12-1957 की अधिसूचना सं. 12-173/57-एलएसजी में निम्नलिखित संशोधन करती है :—

“मद सं. 10 में ‘श्री ए.के. झा’ सदस्य सचिव प्रविष्टि के लिए ‘श्री बी.एस. लल्ली’ सदस्य सचिव प्रविष्टि प्रतिस्थापित की जाएगी।”

[सं. के-11011/20/97-डीडी1ए]

परमजीत सिंह, डैस्क अधिकारी

MINISTRY OF URBAN DEVELOPMENT & POVERTY ALLEVIATION

(Delhi Division)

New Delhi, the 2nd April, 2003

S.O. 1190.—In exercise of the powers conferred by sub-section (1), read with clause (g) of sub-section (3) of Section 3 of the Delhi Development Act, 1957 (61 of 1957), the Central Government hereby nominates Shri B.S. Lalli, Member Secretary, National Capital Region Planning Board, as Member of Delhi Development Authority vice Shri A.K. Jha and makes the following amendments in the notification of the Government of India, Ministry of Health No. 12-173/57-LSG dated 30-12-1957, namely:

“In item No. 10, for the entry ‘Shri A.K. Jha’, Member Secretary, the following entry shall be substituted, namely, ‘Shri B.S. Lalli’, Member Secretary”.

[No. K-11011/20/97-DDIA]

PARMJIT SINGH, Desk Officer

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 16 अप्रैल, 2003

का. आ. 1191.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962, (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत के राजपत्र, भाग 2, खण्ड 3, उपखण्ड (ii) तारीख 23 फरवरी, 2002, के पृष्ठ 1913 से पृष्ठ 1927 पर प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 571, तारीख 19 फरवरी, 2002, में निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना की अनुसूची में :—

- (क) पृष्ठ 1923 पर, गाँव "नांदिया कल्ला" के सामने, सर्वेक्षण नं० "106", के स्थान पर, सर्वे संख्यांक "106/1", रखा जाएगा ;
- (ख) पृष्ठ 1925 पर, गाँव "जेतियावास" के सामने, सर्वेक्षण नं० "53", में "3-16", क्षेत्रफल के स्थान पर, "0-04", क्षेत्रफल रखा जाएगा ;

[फा. सं. आर-31015/45/2001-ओ.आर.-II]

हरीश कुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 16th April, 2003

S.O. 1191.—In exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O 571 dated the 19th February, 2002, published at page 1927 to 1941, in Part II, section 3, sub-section (ii) of the Gazette of India, dated the 23rd February, 2002, namely:-

In Schedule to the said notification,-

- (a) at page 1937, against village "NANDIYA KALAN", for survey number "106", survey number "106/1" shall be substituted;
- (b) at page 1939, against village "JETIYAVAS", in survey number "53", for the area "3-16", the area "0-04", shall be substituted.

[No. R-31015/45/2001-O.R.-II]
HARISH KUMAR, Under Secy.

नई दिल्ली, 16 अप्रैल, 2003

का.आ. 1192.- केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में मुन्द्रा पत्तन स्थित अपरिष्कृत तेल संस्थापन (सी.ओ.टी.) से पंजाब राज्य में मटिण्डा तक मुन्द्रा-मटिण्डा पाइपलाइन के माध्यम से अपरिष्कृत तेल के परिवहन के लिए गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड, (हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की समनुषंगी) द्वारा एक पाइपलाइन बिछाई जानी चाहिए.

और केन्द्रीय सरकार ने, भारत के राजपत्र भाग-2, खण्ड 3, उपखण्ड (ii) तारीख 23 फरवरी 2002 में प्रकाशित भारत सरकार की पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 571 तारीख 19 फरवरी, 2002 द्वारा कतिपय भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी ;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जिसके भीतर उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, और जो इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उसमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर उक्त भूमि के भीतर पाइपलाइन बिछाने के सम्बन्ध में, श्री ए. आर. चौधरी, सक्षम प्राधिकारी, मुन्द्रा-मटिण्डा अपरिष्कृत तेल पाइपलाइन, पंजाब रिफाइनरी परियोजना, गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की समनुषंगी), एल.पी.जी. बॉटलिंग संयंत्र, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड, मगत की कोठी, जोधपुर 342005 को लिखित रूप में आक्षेप भेज सकेगा.

अनुसूची					
तहसील : ओसियाँ			जिला : जोधपुर	राज्य : राजस्थान	
क्रम सं.	गाँव का नाम	खसरा नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
				बीघा	बिस्वा
	1	2	3	4	
1	जेतिशवास	53	1	1	14
		53	मिन	1	19

[फा. सं. आर-31015/45/2001-ओ.आर.-II]

हरीश कुमार, अवर सचिव

New Delhi, the 16th April, 2003

S. O. 1192.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of crude oil from crude oil terminal at Mundra Port in the State of Gujarat to Bathinda in the State of Punjab, through Mundra-Bathinda pipeline, a pipeline should be laid by Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited);

And whereas the Central Government has declared its intention to acquire the right of user in certain lands by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 571 dated the 19th February, 2002 published in Part II, section 3, sub-section (ii) of the Gazette of India dated the 23rd February, 2002;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user (ROU) in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of this notification issued under sub-section (1) of section (3) of the said Act, are made available to the general public, object in writing to the laying of the pipeline under the land to Shri A.R.CHAUDHARY, Competent Authority, Mundra-Bathinda Crude Oil Pipeline, Punjab Refinery Project, Guru Gobind Singh Refineries Limited (a subsidiary of Hindustan Petroleum Corporation Limited), L.P.G. Bottling Plant, Hindustan Petroleum Corporation Limited, Bhagat Ki Kothi, Jodhpur – 342005.

SCHEDULE

Tehsil : Osian District : Jodhpur State : Rajasthan					
	Name of Village	Khasra No.	Part if Any	ROU-Area	
				Biga	Biswa
1	Jetiyavas	53	1	1	14
		53	Min	1	19

[No. R-31015/45/2001-O.R.-III]
HARISH KUMAR, Under Secy.

नई दिल्ली, 16 अप्रैल, 2003

का. आ. 1193—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि मेसर्स रिलाएंस इण्डस्ट्रीज जो मेसर्स गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड की संवर्धक कम्पनी है के गोवा के उत्तरी दक्षिणी अपतट (ऑफ्सोर) में खोज ब्लॉकों और आन्ध्र प्रदेश की संरचनाओं से महाराष्ट्र राज्य में सांगली/ सोलापुर जिले के विभिन्न उपभोक्ताओं तक प्राकृतिक गैस के परिवहन के लिए मेसर्स गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए;

और अब केन्द्रीय सरकार ने भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या क्रमशः का.आ. 2127 तारीख 25 जून 2002 जो भारत के राजपत्र भाग 2, खंड 3 उपखंड (ii) तारीख 29 जून 2002 में प्रकाशित की गयी थी, के द्वारा उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और, केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसके भीतर उक्त पाइपलाइन बिछाने का प्रस्ताव है और जो इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन अधिनियम 1962) (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर, पाइपलाइन बिछाई जाने के लिए उपयोग के अधिकार के अर्जन के लिए श्री डी.एस.घोत्रे, सक्षम प्राधिकारी, गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड, पाइपलाइन परियोजना, प्लॉट नं. 11 और 12, सर्वोदय नगर, विजापूर रोड, सोलापुर-413004, महाराष्ट्र राज्य को लिखित रूप में आक्षेप भेज सकेगा ।

अनुसूची

तहसील : मिरज		जिल्हा : सांगली	राज्य : महाराष्ट्र		
गाव का नाम	गट नंबर		एरिया		
			हेक्टर	एर	सि-एर
1	2		3	4	5
1) डवळी	471		0	5	55
कुल संख्या	1		0	5	55
2) विजयनगर	158		0	36	45
	213	1	0	18	75
कुल संख्या	2		0	55	20
3) बेडग	2144	A	0	15	0
	250	A	0	89	29
	509		0	0	40
कुल संख्या	3		1	4	69
4) एरडोली	1056		0	0	50
	973		0	0	60
कुल संख्या	2		0	1	10
5) व्यंकोचीवाडी	283		0	21	98
कुल संख्या	1		0	21	98
तहसिल कुल संख्या	9		1	88	52

तहसील : कवठे महाकाळ		जिल्हा : सांगली	राज्य : महाराष्ट्र		
गाव का नाम	गट नंबर		एरिया		
			हेक्टर	एर	सि-एर
1	2		3	4	5
1) सोणारवाडी	नदी अग्रणी		0	34	35
	440		0	46	29
	433		0	27	15
	386		0	16	50
	392		0	24	96
	398		0	0	96
	397		0	7	15
	396		0	15	12
	395		0	17	42
	394		0	5	22
	403		0	2	21
कुल संख्या	10		1	97	33
2) कोकळ	1064		0	24	75
	1067		0	41	10
	1068		0	8	4
	1069		0	0	40
कुल संख्या			0	74	29
तहसिल कुल संख्या			2	71	62
तहसिल कुल संख्याये			4	60	14

[फा. सं. एल.-14014/31/02-जी.पी.]

स्वामी सिंह, निदेशक

New Delhi, the 16th April, 2003

S. O. 1193.— Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of the natural gas from the exploration blocks in the Northern/Southern Offshore of Goa and structures in Andhra Pradesh State of M/s Reliance Industries Limited, the promoter company of M/s Gas Transportation and Infrastructure Company Limited to the various consumers of District Sangli/Solapur in the State of Maharashtra, a pipeline should be laid by M/s Gas Transportation and Infrastructure Company Limited;

And whereas the Central Government has declared its intention to acquire the right of user vide notification of Government of India in the Ministry of Petroleum and Natural Gas number S.O. 2127 dated the 25th June 2002, published in part II section 3, sub-section (ii) of the Gazette of India dated 29th June 2002.

And whereas it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user (ROU) in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of the notification issued under sub-section (1) of section 3 of the said Act, are made available to the general public, object in writing to the pipeline under the land to Shri. D.S. Dhotre, Competent Authority GTICL Pipeline Project, Plot No. 11 & 12 Sarvodaya Nagar, Vijapur Road, Solapur, Maharashtra State, Pin - 413 004.

SCHEDULE

SCHEDULE

Tahsil : Miraj		District : Sangali		State: Maharashtra		
Name of the Village	Gat. No		Area of ROU			
			Hectare	Are	C-Are	
1	2		3	4	5	
(1) Dhavali	471		0	5	55	
Total			0	5	55	
(2) Vijaynagar	158		0	36	45	
	213	1	0	18	75	
Total			0	55	20	
(3) Bedag	2144	A	0	15	0	
	250	A	0	89	29	
	509		0	0	40	
Total			1	4	69	
(4) Erandoli	1056		0	0	50	
	973		0	0	60	
Total			0	1	10	
(5) Vyankochiwadi	283		0	21	98	
Total			0	21	98	
Tahsil Total			1	88	52	

Name of the Village	Gat. No.	Sub-Dn. No.	Area of ROU		
1	2	3	Hectare	Are	C-Are
			4	5	6
(1) Lonarwadi	River Agrani		0	34	35
	440		0	46	29
	433		0	27	15
	386		0	16	50
	392		0	24	96

1	2	3	4	5	6
Lomarwadi (contd.)	398		0	0	96
	397		0	7	15
	396		0	15	12
	395		0	17	42
	394		0	5	22
	403		0	2	21
Total			1	97	33
(2) Kokale	1064		0	24	75
	1067		0	41	10
	1068		0	8	4
	1069		0	0	40
Total			0	74	29
Tahsil Total			2	71	62
Grand Total			4	60	14

[No. L-14014/31/02-G.P.]

SWAMY SINGH, Director

नई दिल्ली, 16 अप्रैल, 2003

का. आ. 1194.— केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत के राजपत्र, भाग 2, खण्ड 3, उपखण्ड (ii) तारीख 29 जून 2002 में पृष्ठ क्रमांक 6236 से 6247 पर प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का.आं. 2127 तारीख 25 जून 2002 में निम्नलिखित संशोधन करती है, अर्थात:-

उक्त अधिसूचना की अनुसूची में,

1. पृष्ठ 6236 पर स्तंभ 2 में "ढवळी" गांव के सामने गट क्रमांक "277" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-7-1" के स्थान पर क्षेत्रफल "0-7-31" रखा जाएगा.
2. (i) पृष्ठ 6237 पर स्तंभ 2 में "म्हैसाळ" गांव के सामने गट क्रमांक "1754" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-12-08" के स्थान पर क्षेत्रफल "0-13-20" रखा जाएगा.
- (ii) पृष्ठ 6237 पर स्तंभ 2 में "म्हैसाळ" गांव के सामने गट क्रमांक "1764" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-7-72" के स्थान पर क्षेत्रफल "0-9-0" रखा जाएगा.
- (iii) पृष्ठ 6237 पर स्तंभ 2 में "म्हैसाळ" गांव के सामने गट क्रमांक "1767" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-5-68" के स्थान पर क्षेत्रफल "0-9-60" रखा जाएगा.
- (iv) पृष्ठ 6237 पर स्तंभ 2 में "म्हैसाळ" गांव के सामने गट क्रमांक "1867" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-4-69" के स्थान पर क्षेत्रफल "0-5-40" रखा जाएगा.
3. (i) पृष्ठ 6239 पर स्तंभ 2 में "बेडग" गांव के सामने गट क्रमांक "414" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-29-42" के स्थान पर क्षेत्रफल "0-33-0" रखा जाएगा.
- (ii) पृष्ठ 6239 पर स्तंभ 2 में "बेडग" गांव के सामने गट क्रमांक "510" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-0-39" के स्थान पर क्षेत्रफल "0-7-0" रखा जाएगा.
- (iii) पृष्ठ 6239 पर स्तंभ 2 में "बेडग" गांव के सामने गट क्रमांक "446" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-31-56" के स्थान पर क्षेत्रफल "0-32-10" रखा जाएगा.

- (iv) पृष्ठ 6240 पर स्तंभ 2 में "बेडग" गांव के सामने गट क्रमांक "851" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-11-64" के स्थान पर क्षेत्रफल "0-20-82" रखा जाएगा।
4. (i) पृष्ठ 6240 पर स्तंभ 2 में "एरंडोली" गांव के सामने गट क्रमांक "1200" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-8-59" के स्थान पर क्षेत्रफल "0-9-46" रखा जाएगा।
- (ii) पृष्ठ 6241 पर स्तंभ 2 में "एरंडोली" गांव के सामने गट क्रमांक "964" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-28-26" के स्थान पर क्षेत्रफल "0-28-67" रखा जाएगा।
- (iii) पृष्ठ 6241 पर स्तंभ 2 में "एरंडोली" गांव के सामने गट क्रमांक "943" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-29-68" के स्थान पर क्षेत्रफल "0-30-58" रखा जाएगा।
5. (i) पृष्ठ 6241 पर स्तंभ 2 में "व्यंकोचीवाडी" गांव के सामने गट क्रमांक "256" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-37-66" के स्थान पर क्षेत्रफल "0-42-66" रखा जाएगा।
- (ii) पृष्ठ 6242 पर स्तंभ 2 में "व्यंकोचीवाडी" गांव के सामने गट क्रमांक "55" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-8-77" के स्थान पर क्षेत्रफल "0-12-0" रखा जाएगा।
6. (i) पृष्ठ 6242 पर स्तंभ 2 में "शिपूर" गांव के सामने गट क्रमांक "625" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-14-94" के स्थान पर क्षेत्रफल "0-15-60" रखा जाएगा।
- (ii) पृष्ठ 6242 पर स्तंभ 2 में "शिपूर" गांव के सामने गट क्रमांक "624" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-21-2" के स्थान पर क्षेत्रफल "0-28-50" रखा जाएगा।
- (iii) पृष्ठ 6242 पर स्तंभ 2 में "शिपूर" गांव के सामने गट क्रमांक "622" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-18-43" के स्थान पर क्षेत्रफल "0-22-60" रखा जाएगा।
- (iv) पृष्ठ 6242 पर स्तंभ 2 में "शिपूर" गांव के सामने गट क्रमांक "573" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-9-75" के स्थान पर क्षेत्रफल "0-13-74" रखा जाएगा।
- (v) पृष्ठ 6242 पर स्तंभ 2 में "शिपूर" गांव के सामने गट क्रमांक "376" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-8-79" के स्थान पर क्षेत्रफल "0-10-8" रखा जाएगा।
- (vi) पृष्ठ 6242 पर स्तंभ 2 में "शिपूर" गांव के सामने गट क्रमांक "372/1" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-17-6" के स्थान पर क्षेत्रफल "0-28-20" रखा जाएगा।
- (vii) पृष्ठ 6243 पर स्तंभ 2 में "शिपूर" गांव के सामने गट क्रमांक "315" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-29-67" के स्थान पर क्षेत्रफल "0-30-45" रखा जाएगा।
- (viii) पृष्ठ 6243 पर स्तंभ 2 में "शिपूर" गांव के सामने गट क्रमांक "317" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-34-73" के स्थान पर क्षेत्रफल "0-40-20" रखा जाएगा।

7. (i) पृष्ठ 6244 पर स्तंभ 2 में "कदमवाडी" गांव के सामने गट क्रमांक "424" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-3-66" के स्थान पर क्षेत्रफल "0-5-10" रखा जायेगा
- (ii) पृष्ठ 6244 पर स्तंभ 2 में "कदमवाडी" गांव के सामने गट क्रमांक "426" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-5-48" के स्थान पर क्षेत्रफल "0-6-30" रखा जायेगा
- (iii) पृष्ठ 6244 पर स्तंभ 2 में "कदमवाडी" गांव के सामने गट क्रमांक "428" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-6-35" के स्थान पर क्षेत्रफल "0-9-30" रखा जायेगा
- (iv) पृष्ठ 6244 पर स्तंभ 2 में "कदमवाडी" गांव के सामने गट क्रमांक "396" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-3-16" के स्थान पर क्षेत्रफल "0-4-20" रखा जायेगा
8. (i) पृष्ठ 6245 पर स्तंभ 2 में "सलगरे" गांव के सामने गट क्रमांक "825" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-15-2" के स्थान पर क्षेत्रफल "0-15-75" रखा जायेगा
- (ii) पृष्ठ 6245 पर स्तंभ 2 में "सलगरे" गांव के सामने गट क्रमांक "934" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-1-45" के स्थान पर क्षेत्रफल "0-2-38" रखा जायेगा
- (iii) पृष्ठ 6245 पर स्तंभ 2 में "सलगरे" गांव के सामने गट क्रमांक "920" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-31-5" के स्थान पर क्षेत्रफल "0-31-43" रखा जायेगा
- (iv) पृष्ठ 6245 पर स्तंभ 2 में "सलगरे" गांव के सामने गट क्रमांक "922" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-0-40" के स्थान पर क्षेत्रफल "0-1-92" रखा जायेगा
- (v) पृष्ठ 6245 पर स्तंभ 2 में "सलगरे" गांव के सामने गट क्रमांक "24" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-32-73" के स्थान पर क्षेत्रफल "0-33-60" रखा जायेगा
- (vi) पृष्ठ 6245 पर स्तंभ 2 में "सलगरे" गांव के सामने गट क्रमांक "42" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-31-13" के स्थान पर क्षेत्रफल "0-32-52" रखा जायेगा
- (vii) पृष्ठ 6245 पर स्तंभ 2 में "सलगरे" गांव के सामने गट क्रमांक "43" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-0-65" के स्थान पर क्षेत्रफल "0-1-11" रखा जायेगा
9. (i) पृष्ठ 6245 पर स्तंभ 2 में "कोंगनोळी" गांव के सामने गट क्रमांक "530" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-3-67" के स्थान पर क्षेत्रफल "0-4-80" रखा जायेगा
- (ii) पृष्ठ 6246 पर स्तंभ 2 में "कोंगनोळी" गांव के सामने गट क्रमांक "296" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-8-80" के स्थान पर क्षेत्रफल "0-10-80" रखा जायेगा
- (iii) पृष्ठ 6246 पर स्तंभ 2 में "कोंगनोळी" गांव के सामने गट क्रमांक "299" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-10-53" के स्थान पर क्षेत्रफल "0-12-25" रखा जायेगा

- (iv) पृष्ठ 6246 पर स्तंभ 2 में "कोंगनोळी" गांव के सामने गट क्रमांक "317" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-5-5" के स्थान पर क्षेत्रफल "0-7-50" रखा जायेगा
- (v) पृष्ठ 6246 पर स्तंभ 2 में "कोंगनोळी" गांव के सामने गट क्रमांक "318" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-12-43" के स्थान पर क्षेत्रफल "0-13-20" रखा जायेगा
- (vi) पृष्ठ 6246 पर स्तंभ 2 में "कोंगनोळी" गांव के सामने गट क्रमांक "319" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-14-4" के स्थान पर क्षेत्रफल "0-14-40" रखा जायेगा
10. (i) पृष्ठ 6247 पर स्तंभ 2 में "कोकळे" गांव के सामने गट क्रमांक "1060" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-17-81" के स्थान पर क्षेत्रफल "0-20-40" रखा जायेगा
- (ii) पृष्ठ 6247 पर स्तंभ 2 में "कोकळे" गांव के सामने गट क्रमांक "1080" के सामने स्तंभ 4, 5 और 6 के क्षेत्रफल "0-81-23" के स्थान पर क्षेत्रफल "0-82-65" रखा जायेगा

[फा. सं. एल.-14014/31/02-जी.पी.]

स्वामी सिंह, निदेशक

New Delhi, the 16th April, 2003

S. O. 1194.— In exercise of the powers conferred by sub section (1) of section (3) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) the Central Govt. hereby makes the following amendment in the notification of the Govt. Of India in the Ministry of Petroleum and Natural Gas number S.O. 2127 dated 25th June 2002 published at pages 6248 to 6260 in part – II section 3, sub-section (ii) of the Gazette of India, dated 29th June 2002 namely: -

In schedule to the said notification: -

1. At page 6249 against village "Dhawali" in column No. 1, Gat No. "277" in column No. 2, for the area "0-7-1" in column No. 4, 5 & 6 the area "0-7-31" Shall be Substituted;
2. (i) At page 6249 against village "Mhaisai" in column No. 1, Gat No. "1754" in column No. 2, for the area "0-12-68" in column No. 4, 5 & 6 the area "0-13-20" Shall be Substituted;
- (ii) At page 6250 against village "Mhaisai" in column No. 1, Gat No. "1764" in column No. 2, for the area "0-7-72" in column No. 4, 5 & 6 the area "0-9-0" Shall be Substituted;
- (iii) At page 6250 against village "Mhaisai" in column No. 1, Gat No. "1767" in column No. 2, for the area "0-5-68" in column No. 4, 5 & 6 the area "0-9-60" Shall be Substituted;
- (iv) At page 6250 against village "Mhaisai" in column No. 1, Gat No. "1867" in column No. 2, for the area "0-4-69" in column No. 4, 5 & 6 the area "0-5-40" Shall be Substituted;

3. (i) ~~at~~ page 6252 against village "Bedag" in column No. 1, Gat No. "414" in column No. 2, for the area "0-29-42" in column No. 4, 5 & 6 the area "0-33-0" Shall be Substituted;
- (ii) ~~at~~ page 6252 against village "Bedag" in column No. 1, Gat No. "510" in column No. 2, for the area "0-0-39" in column No. 4, 5 & 6 the area "0-7-0" Shall be Substituted;
- (iii) ~~at~~ page 6252 against village "Bedag" in column No. 1, Gat No. "446" in column No. 2, for the area "0-31-56" in column No. 4, 5 & 6 the area "0-32-10" Shall be Substituted;
- (iv) ~~at~~ page 6253 against village "Bedag" in column No. 1, Gat No. "851" in column No. 2, for the area "0-11-64" in column No. 4, 5 & 6 the area "0-20-82" Shall be Substituted;
4. (i) ~~at~~ page 6253 against village "Erandoli" in column No. 1, Gat No. "1200" in column No. 2, for the area "0-8-59" in column No. 4, 5 & 6 the area "0-9-46" Shall be Substituted;
- (ii) ~~at~~ page 6253 against village "Erandoli" in column No. 1, Gat No. "964" in column No. 2, for the area "0-28-26" in column No. 4, 5 & 6 the area "0-28-67" Shall be Substituted;
- (iii) ~~at~~ page 6254 against village "Erandoli" in column No. 1, Gat No. "943" in column No. 2, for the area "0-29-68" in column No. 4, 5 & 6 the area "0-30-58" Shall be Substituted;
5. (i) ~~at~~ page 6254 against village "Vyankochiwadi" in column No. 1, Gat No. "256" in column No. 2, for the area "0-37-66" in column No. 4, 5 & 6 the area "0-42-66" Shall be Substituted;
- (ii) ~~at~~ page 6255 against village "Vyankochiwadi" in column No. 1, Gat No. "55" in column No. 2, for the area "0-8-77" in column No. 4, 5 & 6 the area "0-12-0" Shall be Substituted;
6. (i) ~~at~~ page 6255 against village "Shipur" in column No. 1, Gat No. "625" in column No. 2, for the area "0-14-94" in column No. 4, 5 & 6 the area "0-15-60" Shall be Substituted;
- (ii) ~~at~~ page 6255 against village "Shipur" in column No. 1, Gat No. "624" in column No. 2, for the area "0-21-2" in column No. 4, 5 & 6 the area "0-28-50" Shall be Substituted;
- (iii) ~~at~~ page 6255 against village "Shipur" in column No. 1, Gat No. "622" in column No. 2, for the area "0-18-43" in column No. 4, 5 & 6 the area "0-22-60" Shall be Substituted;
- (iv) ~~at~~ page 6255 against village "Shipur" in column No. 1, Gat No. "573" in column No. 2, for the area "0-9-75" in column No. 4, 5 & 6 the area "0-13-74" Shall be Substituted;

- (v) ~~at~~ page 6255 against village "Shipur" in column No. 1, Gat No. "376" in column No. 2, for the area "0-8-79" in column No. 4, 5 & 6 the area "0-10-8" Shall be Substituted;
- (vi) ~~at~~ page 6255 against village "Shipur" in column No. 1, Gat No. "372/1" in column No. 2, for the area "0-17-6" in column No. 4, 5 & 6 the area "0-28-20" Shall be Substituted;
- (vii) ~~at~~ page 6255 against village "Shipur" in column No. 1, Gat No. "315" in column No. 2, for the area "0-29-67" in column No. 4, 5 & 6 the area "0-30-45" Shall be Substituted;
- (viii) ~~at~~ page 6255 against village "Shipur" in column No. 1, Gat No. "317" in column No. 2, for the area "0-34-73" in column No. 4, 5 & 6 the area "0-40-20" Shall be Substituted;
7. (i) ~~at~~ page 6257 against village "Kadamwadi" in column No. 1, Gat No. "424" in column No. 2, for the area "0-3-66" in column No. 4, 5 & 6 the area "0-5-10" Shall be Substituted;
- (ii) ~~at~~ page 6257 against village "Kadamwadi" in column No. 1, Gat No. "426" in column No. 2, for the area "0-5-48" in column No. 4, 5 & 6 the area "0-6-30" Shall be Substituted;
- (iii) ~~at~~ page 6257 against village "Kadamwadi" in column No. 1, Gat No. "428" in column No. 2, for the area "0-6-35" in column No. 4, 5 & 6 the area "0-9-30" Shall be Substituted;
- (iv) ~~at~~ page 6257 against village "Kadamwadi" in column No. 1, Gat No. "396" in column No. 2, for the area "0-3-16" in column No. 4, 5 & 6 the area "0-4-20" Shall be Substituted;
8. (i) ~~at~~ page 6257 against village "Salgare" in column No. 1, Gat No. "825" in column No. 2, for the area "0-15-2" in column No. 4, 5 & 6 the area "0-15-75" Shall be Substituted;
- (ii) ~~at~~ page 6257 against village "Salgare" in column No. 1, Gat No. "934" in column No. 2, for the area "0-1-45" in column No. 4, 5 & 6 the area "0-2-38" Shall be Substituted;
- (iii) ~~at~~ page 6258 against village "Salgare" in column No. 1, Gat No. "920" in column No. 2, for the area "0-31-5" in column No. 4, 5 & 6 the area "0-31-43" Shall be Substituted;
- (iv) ~~at~~ page 6258 against village "Salgare" in column No. 1, Gat No. "922" in column No. 2, for the area "0-0-40" in column No. 4, 5 & 6 the area "0-1-92" Shall be Substituted;
- (v) ~~at~~ page 6258 against village "Salgare" in column No. 1, Gat No. "24" in column No. 2, for the area "0-32-73" in column No. 4, 5 & 6 the area "0-33-60" Shall be Substituted;

- (vi) ~~at~~ page 6258 against village "Salgare" in column No. 1, Gat No. "42" in column No. 2, for the area "0-31-13" in column No. 4, 5 & 6 the area "0-32-52" Shall be Substituted;
- (vii) ~~at~~ page 6258 against village "Salgare" in column No. 1, Gat No. "43" in column No. 2, for the area "0-0-65" in column No. 4, 5 & 6 the area "0-1-11" Shall be Substituted;
9. (i) ~~at~~ page 6258 against village "Kongnoli" in column No. 1, Gat No. "530" in column No. 2, for the area "0-3-67" in column No. 4, 5 & 6 the area "0-4-80" Shall be Substituted;
- (ii) ~~at~~ page 6259 against village "Kongnoli" in column No. 1, Gat No. "296" in column No. 2, for the area "0-8-80" in column No. 4, 5 & 6 the area "0-10-80" Shall be Substituted;
- (iii) ~~at~~ page 6259 against village "Kongnoli" in column No. 1, Gat No. "299" in column No. 2, for the area "0-10-53" in column No. 4, 5 & 6 the area "0-12-25" Shall be Substituted;
- (iv) ~~at~~ page 6259 against village "Kongnoli" in column No. 1, Gat No. "317" in column No. 2, for the area "0-5-5" in column No. 4, 5 & 6 the area "0-7-50" Shall be Substituted;
- (v) ~~at~~ page 6259 against village "Kongnoli" in column No. 1, Gat No. "318" in column No. 2, for the area "0-12-43" in column No. 4, 5 & 6 the area "0-13-20" Shall be Substituted;
- (vi) ~~at~~ page 6259 against village "Kongnoli" in column No. 1, Gat No. "319" in column No. 2, for the area "0-14-4" in column No. 4, 5 & 6 the area "0-14-40" Shall be Substituted;
10. (i) ~~at~~ page 6260 against village "Kokale" in column No. 1, Gat No. "1060" in column No. 2, for the area "0-17-81" in column No. 4, 5 & 6 the area "0-20-40" Shall be Substituted;
- (ii) ~~at~~ page 6260 against village "Kokale" in column No. 1, Gat No. "1080" in column No. 2, for the area "0-81-23" in column No. 4, 5 & 6 the area "0-82-65" Shall be Substituted;

[No. L-14014/31/02-G.P.]
SWAMY SINGH, Director

श्रम मंत्रालय

नई दिल्ली, 21 मार्च, 2003

का. आ. 1195.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 50/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-3-2003 को प्राप्त हुआ था।

[सं. एल-12011/68/2001-आई. आर. (बी. II)]

सी. गंगाधरण, अवर सचिव

MINISTRY OF LABOUR

New Delhi, the 21st March, 2003

S.O. 1195.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 50/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the management of Punjab National Bank and their workman, which was received by the Central Government on 21-3-2003.

[No. L-12011/68/2001-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR**

Case No. CGIT-50/2001.

Reference No. L-12011/68/2001/IR(B-II)

The President,

Asso. of P.N.B. Employees, Rajasthan,

Aacharyao-ki-Havli, Kishanpole Bazar,

Jaipur (Rajasthan).

.....Applicant

Versus

Punjab National Bank,

The Regional Manager, PNB,

Nehru Place, Tonk Road,

Jaipur (Rajasthan)-302015.

....Non-applicant

PRESENT:

Presiding Officer: Sh. R.C. Sharma.

For the applicant: Sh. R.C. Jain

For the non-applicant: Sh. Ratul Shivhare.

Date of Award: 13.2.2003.

AWARD

1. The Central Government in exercise of the powers conferred under clause D of Sub-sections 1 and 2(A) of

Section 10 of the Industrial Disputes Act, 1947 (for short, the Act) has referred the following industrial dispute for adjudication:—

“Whether the action of the management of Punjab National Bank for not offering the post of CTOs as per Bipartite Settlement dated 29-3-1994, 1-11-1998 and Managements circular No. 23/1990 dated 6-6-1999 to S/Shri Vishwa Bandhu Angira, Sunil Kumar Jain, Bhawani Shanker Goyal, Kamlesh Heda, Suresh Raj Khurana and Sh. S.K. Nandwani whose period of debarment was over was justified? If not, what relief the workmen are entitled and from what date?”

2. Pursuant to the reference, the applicant-association in its statement of claim has pleaded that a settlement was entered into between the management and the applicant-union on 29-3-94 for selection of the Computer Operators, which was circulated by the letter of the management dated 30-4-94 (Ex. W/1) and a test was conducted on 20-7-97 and the seniority list of the successful candidates was issued on 1-1-97. It has been averred that as per the clauses of the Bipartite Settlement, this panel was valid for a ‘period’ of three years up to 31-12-99, that the appointments were made on these posts from amongst candidates of this panel by the Department as per the settlement dated 1-11-88 (Ex. W/2), but the management has violated the terms and conditions of the Bipartite Settlements. It is alleged that the workmen, viz., Sh. Vishwa Bandhu Angira, Sh. Sunil Kumar Jain, Sh. Bhawani Shanker Goyal, Sh. Kamlesh Heda, Sh. Suresh Raj Khurana and Sh. S.K. Nandwani were not offered this post as per the conditions of the Bipartite Settlement. Narrating the instances, the Association has stated that Sh. Vishwa Bandhu Angira was appointed as Special Assistant who did not accept the offer and after accruing the vacancy on 14-8-98, he was not offered the post of the CTO. Similarly, Sh. Sunil Kumar Jain, Sh. Bhawani Shanker Goyal, Sh. Kamlesh Heda, Sh. Suresh Raj Khurana and Sh. S.K. Nandwani were offered the post of CTO on 7-11-97, 7-11-97, 7-11-97, 3-3-98 and 23-3-98 respectively who were debarred for a period of one year on account of not accepting the offered post. It has been further pleaded that the debarment period of these workmen was over on 11-11-98, 11-11-98, 22-2-99, 4-3-99 and 27-3-99 respectively. But from May, 99 to September, 99 when the vacancies to this post accrued, the management did not offer to the workmen and in violation of the clauses of the settlements, it was offered to the other employees, viz., to Sh. N.C. Mittal, Sh. C.L. Sharma, Sh. N.L. Swami and others who have been named at para 4 of the statement of claim. The Association has stated that these employees were juniors to the workmen, who have been shown in the panel (Ex. W/5). As per the applicant-association, the management issued a circular dated 20-1-99 (Ex. W/4) whereby it was conveyed that if an employee named in the panel refuses to join the

post of CTO, then his name would be deemed automatically struck off from the panel. The Association has assailed this circular dated 20-1-99 on the grounds that the clauses of the Bipartite Settlement cannot be changed by issuing such a circular and that no notice under Section 9(A) of the Act was issued to the Association. The Association has prayed that the workmen are entitled to be appointed on the post of the CTO from the dates as indicated against their names shown below:—

(i)	Sh. Vishwa Bandhu Angira	14-8-98
(ii)	Sh. Sunil Kumar Jain	11-11-98
(iii)	Sh. Bhawani Shanker Goyal	11-11-98
(iv)	Sh. Kamlesh Heda	22-2-99
(v)	Sh. Suresh Raj Khurana	4-3-99
(vi)	Sh. S.K. Nandwani	27-3-99.

3. Resisting the claim made by the applicant-association, the non-applicant in its reply has admitted the Bipartite Settlement dated 29-3-94 which was circulated by the letter dated 30-4-94 and has stated that it was agreed upon that in the event of any ambiguity in the settlement, the deliberations will be held between the Department of Personnel of the PNB and the PNB Employees Federation. It is further admitted that a test was conducted by the non-applicant establishment on 20-7-97 and a panel (Ex. M-3) of the successful candidates was prepared which was effective for a period of three years as per the clause 8 of the settlement dated 29-3-94 and the period of three years runs from 1-1-97. The non-applicant has further pleaded that the Department of Personnel, Principal Office, New Delhi vide its letter dated 15-1-99 (Ex. M-4) conveyed that those employees who were debarred for a period of one year on account of refusing the proposal for the appointment to the said post, their names would be treated to be struck off automatically and that they will not be appointed on the post of the CTOs, but they can work on the said post on the officiating basis if they are eligible for such appointments as per rules. It has been further stated that a few of the employees were promoted as Special Assistant before offering them the post of Computer Operators and that Sh. Vishwa Bandhu Angira, whose name appeared in the panel, was selected to the post of the CTO and when he reverted to his earlier post, he was not offered for the post of the CTO. For the remaining workmen, the management has stated that since they have not accepted the offer of the said post, the action with regard to them was taken in accordance with the letter of the principal office dated 15-1-99 (Ex. M/4). A new settlement was executed on 26-7-2000 between the PNB Management and the All India PNB Employees Federation (Ex. M/8), whereby it was conveyed that the panel prepared on the basis of the test held on 20-7-97 would be treated to be lapsed as per the provisions of the settlement dated 31-12-99.

4. In the evidence, on behalf of the applicant-association the affidavit of Sh. Anil Kumar Mathur, WW-1 has been filed and the non-applicant has submitted the counter-affidavit of MW-1 Sh. Shushil Kumar Chhajer, the officer of the bank. The association has filed five documents in support of its case, whereas the management has submitted as many as nine documents.

5. I have heard both the Id. representatives and have gone through the record.

6. The Id. representative for the applicant-association has argued that the panel of the successful candidates for the post of the CTOs was prepared as per paras 6 to 8, which was operative for a period of three years i.e. up to 31-12-99. The workmen who refused the offer to join the said post, could be debarred only for one year as per the clauses of the settlement. But as per the circular Ex. W/4 issued by the non-applicant, their names were struck off from the panel. According to his contention, this circular is against the provisions of the settlement and it cannot change the terms and conditions laid down in the settlement. He has further contended that no notice under Section 9(A) of the Act was issued to the Association before issuing the circular Ex. W-4. In support of his contentions, he has relied upon 1999(2) LLJP & H 84.

7. Arguing contra, the Id. representative for the non-applicant management has contended that the circular dated 20-1-99 was issued by the management in consultation with the Union which is binding upon the workmen and the applicant-association was not a party to the settlement dated 29-3-94. The Id. representative has further contended that a few of the workmen were promoted to the post of the Special Assistant, who on this account could not be offered the post of the CTO.

8. I have given my thoughtful consideration to the rival contentions advanced by both the Id. representatives and have carefully gone through the judicial pronouncements referred to before me.

9. As per the pleadings of the parties, the facts that a Bipartite Settlement dated 29-3-94 Ex. W/1 was executed, that a test was held on 20-7-97 for the selection to the post of the CTOs, that a panel Ex. W/5 of the successful candidates was prepared, which contains the names of all the six workmen, and that as per the clauses of this settlement, the panel of the successful candidates was operative for a period of three years, remain undisputed. The only crucial point that crops up for consideration in this dispute is whether the circular dated 20-1-99 Ex. W/4 issued by the non-applicant management has the overriding effect upon the provisions of the settlement dated 29-3-94 Ex. W/1.

10. The relevant portions of paragraphs 8 & 9 of the settlement Ex. W/1 are reproduced here for the sake of convenience:—

Para 8 : "..... This panel including Standby Computer Operators will be valid for posting as Computer Operators for a period of 3 years including the year in which the panel is drawn. The permanent ALPM Operators will, however, get preference over Standby Computer Operators for posting as permanent Computer Operators."

Para 9 : "In case of refusal to accept posting as Computer Operators, the Clerical employees including ALPM Operators will be debarred from posting as well as working in stop gap arrangement as Computer Operators for one year from the date of refusal."

11. The circular dated 20-1-99 issued by the Department of Personnel of the non-applicant establishment runs as under :

"प्रधान कार्यालय द्वारा मार्गदर्शन उपलब्ध कराया गया है कि ऐसे मामले, जिनमें कि पैनेल में चयनित किसी व्यक्ति द्वारा कम्प्यूटर ऑपरेटर के पद पर तैनाती हेतु एक बार मना कर दिया गया हो तो उनका नाम कम्प्यूटर ऑपरेटर के पैनेल से स्वतः हट जायेगा। ऐसे व्यक्ति डिबार अवधि समाप्त होने के बाद पुनः कम्प्यूटर ऑपरेटर के पद पर स्थायी तैनाती के दावेदार नहीं होंगे। किन्तु, डिबार अवधि समाप्त होने के बाद उन्हें कम्प्यूटर ऑपरेटर पर ऑफिशियेटिंग के अवसर दिये जाने चाहिये।

12. The first objection raised by the Ld. representative for the non-applicant establishment is that the applicant-association was not a party to the settlement Ex. W/1 and, therefore, it cannot derive the benefits given by this settlement. The Ld. representative for the applicant-association has tried to controvert it.

13. WW-1, Sh. Anil Kumar Mathur in this context has deposed in his testimony that the settlement dated 29-3-94 was executed between the PNB Employees Federation and the management of PNB and the applicant-association was not a party to it. But he has emphatically stated that this settlement is effective to all the employees and the working staff of the Punjab National Banks. His version is even corroborated by MW-1 Sh. S.K. Chhajer, a witness examined on behalf of the non-applicant establishment who admits in his cross-examination that the settlement dated 29-3-94 was even effective to the Association of PNB, Rajasthan and the panel Ex. W/5 was operative till 31-12-99. Therefore, the submission made by the Ld. representative for the non-applicant that since the applicant-association was not a party to the settlement dated 29-3-94, it cannot derive benefits on this account, is not acceptable.

14. Now comes up the question as to the overriding effect of the circular dated 20-1-99 Ex. W/4 issued by the non-applicant management upon the settlement Ex. W/1.

15. As is evident, settlement Ex. W/1 was arrived at between the management of PNB and All India PNB Employees Federation and the terms of this settlement could only be superseded by another settlement entered into by both the parties. Ex. W/4 is a circular issued by the management which tramples down the terms contained at para 9 of this settlement. In pursuance of this circular, it is

emphasized on behalf of the non-applicant bank that the workmen were not offered the post of CTOs after refusing by them the offer made by the management. But para 9 specifically lays down that in case of refusal to accept the offer made by the management, the employee will be debarred from posting as Computer Operator for one year from the date of the refusal. It has not been the case of the non-applicant management that after the lapse of debarment period of one year, the workmen were offered the post of Computer Operators. The Ld. representative for the workmen in support of his contention has relied upon 1999 (2) LLJ P & H 84 wherein the Hon'ble Court has observed the principle as to the effect of the unilateral order issued by the management vis-a-vis the binding award between the parties as under:—

"In view of the above, it is held that there was a binding award between the parties. In view of that award, the workmen were entitled to wages for the duties performed by them on Saturdays. This award was unaffected by the unilateral order issued by the Commissioner, on August 12, 1986. As a result, the claim made by the workmen would not be affected by the order dated August 12, 1986. This would be the position in C.W.P. Nos. 12002 to 12022 of 1992 and 9374 of 1992."

16. In the light of this principle propounded by the Hon'ble Court, it cannot be presumed that the circular Ex. W/4 dated 20-1-99 has the overriding effect upon the settlement dated 29-3-94 Ex. W/1 and the contention raised by the Ld. representative for the applicant-association finds assistance from the judicial pronouncement and the submission raised by the Ld. representative for the non-applicant is not tenable.

17. It has also been contended on behalf of the non-applicant management that a few of the workmen were promoted as Special Assistant before offering them the post of CTOs. The applicant-association at para 1 of the relief prayed by it has specifically depicted the dates on which the six workmen were to be offered the post of the CTO after the lapse of the debarment period of one year, who were not offered by the non-applicant bank. It is also an admitted fact that the panel Ex. W/5 was operative till 31-12-99. The dates as indicated by the applicant-association on which the non-applicant establishment was required to make the offer could not be rebutted by the non-applicant management. Hence, I find no substance in this submission made on behalf of the non-applicant bank and is accordingly rejected.

18. On the basis of the aforesaid discussion, the reference is answered in affirmative in favour of the applicant-association and against the non-applicant management and it is held that the workmen are entitled for the posting as CTOs after the expiry of the debarment period of one year and from the dates indicated as against their names at para 2 of the award with other consequential benefits. The award is passed in these terms accordingly.

19. Let the copy of the award be sent to the Central Government for publication under Section 17(1) of the Act.

R.C. SHARMA, Presiding Officer

नई दिल्ली, 21 मार्च, 2003

का. आ. 1196.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पीयरलेस जनरल फाइनेन्स एण्ड इन्वेस्टमेंट कं. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 59/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-3-2003 को प्राप्त हुआ था।

[सं. एल-12012/40/2002-आई.आर.(बी. II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 21st March, 2003

S.O.1196.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 59/2002 of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Peerless General and Finance Co. Ltd. and their workmen, received by the Central Government on 21-3-2003.

[No. L-12012/40/2002-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 17th March, 2003

PRESENT: K. Karthikeyan,
Presiding Officer

INDUSTRIAL DISPUTE NO. 59/2002.

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Sri G. Sasidharan Nair and the Management of Peerless General Finance & Investment Co. Ltd.]

BETWEEN

Sri G. Sasidharan Nair : I Party/Workman

AND

The Regional Manager, : II Party/Management
Peerless General Finance
and Investment Co. Ltd.
Chennai

Appearance :

For the Workman : Sh. R. Gowthaman,
Advocate

For the Management : M/s. Surana & Surana,
Advocates

The Government of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-12012/40/2002/IR(B-II) dated 17-06-2002.

On receipt of the order of reference from the Government of India, Ministry of Labour, this case has been taken on file as I.D. No. 59/2002 and notices were sent to the parties to the dispute by registered post, with a direction to appear before this Tribunal on 07-08-2002 to file their respective Claim Statement and Counter Statement and to prosecute this case further. Accordingly, the learned counsel on record on either side have filed their respective claim statement and counter statement and prosecuted this case further.

Upon perusing the Claim Statement, Counter Statement, the documentary evidence let in on either side, the other material papers on record, after hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the action of the management of Peerless General and Finance & Investment Co. Ltd. Chennai, to dismiss Sri G. Sasidharan Nair, Junior Assistant-Cum-Cashier from service vide order dated 21-7-2000 is justified? If not what relief the concerned workman is entitled to?”

2. The averments in the Claim Statement filed by the I Party/Workman Sri G. Sasidharan Nair (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner was employed as Office Assistant in 1989 and was promoted as Junior Assistant-Cum-Cashier by the Respondent/Management in the year 1994 and was posted at the office of the Kottayam branch. The Petitioner had rendered unblemished service of 10 years and he was paid a sum of Rs. 6000 as monthly salary. While he was in service on 30-04-99, he was issued a charge sheet alleging that he has committed a misconduct of cheating a customer to the tune of Rs. 300. Denying the charge, the Petitioner has given a reply. Not satisfied with his explanation, the II Party/Management conducted an enquiry. During the enquiry, instead of the customer, her husband only had been examined as MW1. He had deposed that he did not

remember the person who issued him the computer receipt. The first entry in the Cash Collection Register and the 2nd entry of the ledger posting made by him shows the receipt of Rs. 300 but the computer receipt was issued by somebody else. He had not issued the computer receipt. The management had failed to examine the person who issued the computer receipt, even after repeated demands made by the Petitioner. The Computer Operator alone done the mistake initially and the same was corrected subsequently as per the records. There is no proof for the evidence of MW1 that the Petitioner contacted MW1 through someone to settle the matter. The findings of the Enquiry Officer are perverse. The Petitioner is not responsible for the subsequent entry made by the computer operator in issuing the computer receipt. The non-examination of the computer operator as a witness in the enquiry is fatal to this case. For a flimsy charge, which was not proved before the Enquiry Officer, the Petitioner was given major punishment of dismissal. The past record of the Petitioner was not considered by the Disciplinary Authority, while awarding the punishment. Hence, it is a clear violation of Clause 26(a) of Service Rules. Therefore, the dismissal order dated 21-7-2000 being void is liable to be set aside and the Petitioner is entitled to reinstatement with back wages, continuity of service and all other attendant benefits.

3. The averments in the Counter Statement filed by the II Party/Management Peerless General Finance & Investment Co. Ltd, Chennai, (hereinafter refers to as Respondent) are briefly as follows:—

The averment of the Petitioner that he had an unblemished record of service is denied. As the performance of the Petitioner in work was not satisfactory and he had not shown interest in the works entrusted to him, he has been orally warned a number of times. His probation period has been extended by letter dated 9-5-91. In the enquiry conducted for the charges levelled against the Petitioner in the chargesheet, the husband of the subscriber had been examined, as the subscriber had no knowledge about what had happened on 31-8-98. The Petitioner was in-charge of cash collection counter on 31-8-98, when Mr. Shreekumar, husband of the subscriber, had come to the branch to pay Rs.600/- in cash towards two quarterly subscriptions for September and December, 1998. He had been issued with computer certificate for the amount of Rs.600/- under serial number 199 bearing receipt No. 03113514. On verification only, it was found that the first entry in the cash collection register made by the Petitioner was for a sum of Rs. 300/- against serial number 199. The computer receipt had not been printed by the person who had been in-charge of the computer printing on that day. The Petitioner had also concealed the Kutcha receipt and the adding role register purposely to avoid the detection of this incident. The Petitioner had acted in a

calculated manner with mala fide intention in order to cheat to the tune of Rs. 300/-. The fact that on any given date there could not be two receipts bearing the same serial number (in the same cash counter) and this was clearly brought to the notice of the Enquiry Officer. The Petitioner had not categorically denied having received a sum of Rs.600/- from the customer on 31.8.98. The fact is that the Petitioner had initially made a receipt for Rs. 600/- and he had cancelled it before printing the next serial number. The Petitioner had then made the computer receipt for Rs. 300/- and had intentionally not handed over the receipt to the depositor. The cancellation of computer receipt had been done immediately and the subsequent computer receipt for Rs. 300/- had been printed. The Petitioner had not requested for examination of the person who had issued receipts. The computer operator Mr. Shaji had clearly stated in his report to the Vigilance Officer that he had not printed serial numbers 03113514 and 03113515. The averment of the Petitioner that the computer operator had done the mistake initially and the same had been corrected subsequently as per records is totally wrong. The depositor had clearly deposed that a person known to the Petitioner had contacted another person working at Kuravilangadu branch of State Bank of Travancore, who had in turn met him at his house and had requested for settling the case amicably. Hence, it could not be a cooked up story of the Respondent. The enquiry had been conducted in the manner known to law and the finding had also been based on the evidence before the Enquiry Officer. Therefore, it cannot be said to be perverse. The non-examination of the computer operator could not be said to be fatal to the case. As the institution of the Respondent is a financial institution, which requires the strictest standards to be followed regarding cash/money deposits, the punishment given to the Petitioner was appropriate. The dismissal order had been issued in accordance with the Service Rules. In a proven case of fraudulent act involving customers' money, the past records of the Petitioner need not be taken into account. The dismissal order is valid. The Petitioner had not shown any valid reason for setting aside the dismissal order. He is not entitled to reinstatement with back wages or any other attendant benefits. Hence, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the claim petition.

4. When the matter was taken up for enquiry finally, no one has been examined as a witness on either side. 6 documents have been marked as exhibits on the side of the Petitioner, while 4 documents have been marked as exhibits on the side of the Respondent/Management. The learned counsel on either side had advanced their respective arguments.

5. The point for my consideration is —

“Whether the action of the management of Peerless General Finance & Investment Co. Ltd., Chennai, to dismiss

Sri G. Sasidharan Nair, Junior Assistant-cum-Cashier from service vide order dated 21-7-2000 is justified? If not what relief the concerned workman is entitled to?"

Point :—

This industrial dispute has been raised by the I Party/ Workman Sri G. Sasidharan Nair challenging the action of the Respondent/Management of Peerless General Finance & Investment Co. Ltd., Chennai, by dismissing him from service as illegal and unjustified. It is admitted that the Petitioner while working as Junior Assistant-cum-Cashier in Kottayam branch of the Respondent company, he was issued a chargesheet dated 30-4-99 alleging that he had committed a misconduct under clause 26(a) of the Service Rules of the Respondent by cheating a customer to the tune of Rs. 300/-. The xerox copy of the chargesheet is Ex.W1. The Petitioner/Workman has submitted his explanation dated 13-5-99 for the chargesheet under Ex.W1. The xerox copy of that explanation is Ex.W2. Having not satisfied with the explanation, the Respondent/Management has conducted a domestic enquiry. The original enquiry proceedings along with its true English translation copy is Ex. M4. It is alleged in the chargesheet that when the Petitioner was on duty of the allotted work in the renewal collection counter on 31-8-98 at Kottayam branch of the Respondent company, one R. Shreekumar, husband of Mrs. Usha Shreekumar certificate holder came to the branch and paid Rs. 600/- in cash towards two quarterly subscription for September and December, 1998 and that he was issued a computer receipt for the said amount of Rs. 600/- under serial number 199 bearing Receipt No. 03113514 and that when he came to the office again to pay the quarterly subscription due from March, 1999 onwards, he was informed that quarterly subscription falls due from December, 1998 onwards, though as per the receipt he has already paid the due for December, 1998 and that on verification, it is noticed that Receipt No. 03113514 was cancelled and in its place Receipt No. 03113515 for Rs. 300/- was printed as per Computer Journal file and that the cancellation of Receipt No. 03113514 and printing of Receipt No. 03113515 was done without the knowledge of the officer concerned and before printing the receipt for the next serial number and on verification, it is noted that the Petitioner had made the first entry in cash collection register as Rs. 300/- against serial number 199 and the Petitioner had concealed the Kutcha receipt and adding role purposely to avoid detection of the incident and thus he had acted in a calculated manner with a mala fide intention of cheating to the tune of Rs. 300/-. Ex.W3 is the xerox copy of the enquiry report given by the Enquiry Officer who conducted the enquiry for the charges levelled against the Petitioner under chargesheet Ex.W1. He has given his finding in that report that the Petitioner, who is the delinquent, is the guilty of the charge levelled against him, since the same stands proved. Two witnesses Sri R. Shreekumar the husband of the deposit holder, who

made the payment on the day in question has been examined as MW1 and the Assistant Branch Manager Mr. C. M. Koshi was examined as MW2. 13 documents were exhibited on the side of the Management and the Petitioner having examined himself as a defence witness had exhibited two documents on his side as Ex. D1 and D2. After analysing the entire oral and documentary evidence placed before the Enquiry Officer in the enquiry on either side, the Enquiry Officer had come to the conclusion that the guilt alleged against the Petitioner in the chargesheet stands proved and he is guilty of the charges levelled against him. A perusal of the Enquiry Officer's report Ex.W3 shows that the Enquiry Officer had come to the conclusion on the basis of his appraisal of the evidence placed before him in the domestic enquiry and he has given reasons for having come to that conclusion. On submission of the Enquiry Officer's report, the Disciplinary Authority has issued the Petitioner a 2nd show cause notice dated 21-3-2000. The xerox copy of the same is Ex.W4. The Petitioner has submitted his explanation dated 4-4-2000. The xerox copy of the same is Ex.W5. Not satisfying with the explanation submitted by the Petitioner under Ex.W5 to the 2nd show cause notice under Ex.W4, the Regional Manager of the Respondent/Management has passed an order dated 21-7-2000 imposing the penalty against the Petitioner by dismissing him from the service of the company with immediate effect. The xerox copy of the same is Ex.W6.

6. It is contended by the Petitioner that as per the first entry made by the Petitioner in the cash collection register, a sum of Rs. 300/- has been received and the second entry of the ledger posting also shows the same and thereby it has been proved before the Enquiry Officer and the computer receipt was issued by somebody else and not by him and the Respondent failed to examine the person, who issued the computer receipt, as the computer receipt alone shows that deposit of Rs. 600/- has been made on 31.8.98 for the said certificate. The Branch Manager who had produced the computer sheet before the Enquiry Officer to show that cancellation of the receipt given for Rs. 600/- and the entry was made only for Rs. 300/- only computer operator alone who done the mistake initially had corrected the same subsequently as per the records. He would further contend that the enquiry findings are perverse and the Petitioner is not responsible for subsequent entry made by the computer operator in issuing the computer receipt and the non-examination of the said person in the enquiry is fatal to the domestic enquiry and that for the charges not proved before the Enquiry Officer, the Respondent/Management has given him a major punishment of dismissal without taking into consideration the unblemished ten years past services of the Petitioner, it is a clear violation of 26(a) of Service Rules.

7. It is the contention of the Respondent/Management that the Petitioner alone had made first entry in the cash collection register for a sum of Rs. 300/- against

serial number 199 and the Petitioner had concealed the Kutcha receipt and adding role register purposely to avoid detection of this incident and that the Petitioner had not requested for examination of the person who had issued computer receipt and that the Petitioner had not categorically denied having received a sum of Rs.600/- from the customer on 31-8-98 and he initially made a receipt for Rs.600/- and had cancelled it before printing the next serial number and then he had made the computer receipt for Rs. 300/-, and not handed over that receipt to the depositor and the cancellation of the computer receipt had been done immediately and the subsequent computer receipt for Rs. 300/-, had been printed. The Branch Manager as MW2 had clearly stated before the Enquiry Officer that original deposit slips had been destroyed when the branch size had been reduced and there was no service rules or circular or instruction to store the adding rolls and it was because of that fact the original deposit slips had been destroyed and the same could not be marked as a document in the domestic enquiry and it is not fatal to the case, because of the fact that unless the depositor hands over the depositor slip to the computer section, the computer receipt could not be given to the depositor. The Petitioner also had not denied the charge of having received Rs. 600/- from the depositor and the depositor had clearly deposed that the person known to the delinquent had contacted another person working at State Bank of Travancore, Kuravilangadu branch who met him at his house and had requested for settling the case amicably. In the light of the enquiry proceedings it is clear that the Petitioner having received a sum of Rs.600/- from the depositor had not been able to disprove the statement of the depositor and further Mr. J. P. Parayaran AAOC has given a statement before the Vigilance Consultant Mr. Angappan that he had seen the Kutcha receipt entry for Rs.600/- and only after verifying the same he had signed in the original Receipt No. D 03113514. By his evidence, it has been proved before the Enquiry Officer that the Petitioner, charge sheeted employee as guilty of the charge levelled against him in the charge sheet and on the basis of the proved charge the Disciplinary Authority after issuing the 2nd show cause notice under Ex.W4, and on receipt of the explanation furnished by the Petitioner for the 2nd show cause notice under Ex. W5, had passed the order for dismissal from service under Ex.W6 as it happened to be a grave misconduct committed by the Petitioner under clause 26(a)(ii) for the Service Rules of the Respondent/ Management. Hence, the action of the management in dismissing the Petitioner from service is justified and legal.

8. A perusal of the enquiry report Ex.W3 clearly shows that the Petitioner has been given ample opportunity to put forth his defence effectively before the Enquiry Officer. There are sufficient evidence let in by the Respondent/ Management before the Enquiry Officer for him to come to the conclusion that the charge levelled against the Petitioner has been proved by the Respondent/

Management and hence, it is not the case of no evidence and the finding of the Enquiry Officer is perverse. As it is seen from enquiry report Ex.W3, the depositor who has made the payment on 31.8.98 towards the certificate taken in the name of his wife has deposed as MW1 before the Enquiry Officer that he gave six hundred rupees notes at the cash counter at about 2.30 pm and he can recognise the cashier who collected the cash on that day, further he had identified the Petitioner who had present in the enquiry as the person who was at the counter. It is his further evidence that when he remitted Rs.600/- and got depositor's copy of the challan and gave the same to the computer section and got the stamped receipt. It is his further evidence that he don't remember the person who handed over the receipt. That receipt has been marked as EX. M1 in the domestic enquiry. The xerox copy of that receipt has been marked as Ex. M2. It contains collection serial number as 199 mentioning Rs. 600/- as deposit amount for two instalments and the date of deposit as 31.8.98 and Receipt No. 03113514 affixed with revenue stamp defaced by the Respondent's company seal with the signatures of authorised official and Chief Executive (Administration). Further it is stated in that receipt as renewal 2 and the next due date as 27-3-99. It is also in evidence for making payment in the cash counter to the cashier towards deposit, the Cashier used to write the deposit slip after receiving the deposit from the depositor and handed over the same to the depositor to present it in the computer counter to get the computerised receipt for the amount deposited in the cash counter. It is admitted that on that date i.e. on 31.8.98 when MW1 had made deposit for the certificate in the name of his wife, the Petitioner was there in the cash counter and collected the cash from him. It is his definite evidence that he gave six hundred rupee notes at the cash counter to the Petitioner and got the depositor's copy of challan and gave the same at the computer section and got the stamped receipt Ex.M1, which is Ex.M2 here. The Petitioner also had accepted that under serial number 199 he had made the entry in the cash collection register, but it is for Rs. 300/-, stating that MW1 has given him only Rs. 300/- on that day towards deposit. While cross examining MW1 it is not suggested to him by the Petitioner that he has not received Rs. 600/- cash by way of six hundred rupee notes. But a suggestion has been put to him that MW1 only had corrected the counterfoil for Rs. 300/-, which the Petitioner had given to him as Rs. 600/- and collected the receipt for Rs. 600/-. But, the Petitioner has not stated so in his earlier written explanation under Ex.W2 to the charge sheet. The said suggestion also has been denied by the MW1. From this suggestion, it goes without saying that he has taken up that stand for the first time during the enquiry. In the Claim Statement he has taken another stand stating that only the computer operator alone done the mistake initially and the same was corrected subsequently as per the records. In the Claim Statement it is not mentioned that MW1 had corrected the counterfoil for Rs. 300/-, as Rs. 600/- and

produced the same in the computer section and got the receipt for Rs.600/-. While cross examining MW1 no suggestion has been put to him by the Petitioner, the charge sheeted employee that the computer operator had given him the computer receipt for Rs. 600/- mistakenly, though in the deposit slip the Petitioner has given to MW1 it is mentioned as Rs. 300/-. For the non-filing of the original deposit slip before the Domestic Enquiry Officer, MW2 has given an explanation that it has been destroyed. Further, by giving a receipt for Rs. 600/- for the amount Rs. 300/- deposited the person who was in the computer section on that day will not be benefited monetarily. Though a suggestion has been put to MW1 in the cross examination that he only has corrected in the counterfoil the figure Rs. 300/- to Rs. 600/- it was not pleaded in the Claim Statement or in his explanation to the charge memo and the said suggestion also has not been proved before the Enquiry Officer.

Further, the second stand taken by the Petitioner in his Claim Statement that the computer operator alone has done the mistake initially has not been mentioned earlier in his explanation to the charge memo or while cross examining the MW1. It is there on record that subsequent to the issuance of deposit receipt Ex.M2 under Receipt No. D03113514 dated 31-8-98 under collection serial No.199 for Rs. 600/- there is an entry available in the computer for cancellation of that receipt and a fresh computer receipt has been printed for Rs. 300/- under Receipt No. 03113515. for the same serial No. 199 for Rs. 300/-. The xerox copy of that duplicate receipt dated 31-8-1998 under Receipt No. D03113515 for Rs. 300/- is Ex.M1. In that receipt the next due date has been mentioned as 27-12-98 and it does not contain the authorised official's signature. From this it is seen that under collection serial number 199, first the deposit Receipt for Rs.600/- under Ex.M2 and then receipt under Ex.M1 under the next receipt for Rs.300/- has been prepared as computer receipt and Ex.M2 was given to the customer and Ex.M1 is there in the computer, thereby the print out has been taken as duplicate. If really, the original of Ex.M1 has been given to the depositor without the signature of the authorised official as it is available in Ex.M2 for a sum of Rs.300/- he would have raised a hue and cry for the receipt has been given for half of the amount he has deposited. The only person who can be benefited by this transaction can at the best be the Cashier who received the sum from MW1 and made an entry in the cash collection register under serial number 199 as Rs. 300/- after giving a deposit slip for Rs. 600/- to MW1 and thereby enabled him to get a computer receipt for Rs. 600/- from the computer section and to set right the same the receipt given for Rs. 600/- in the earlier number has been cancelled and for the subsequent number receipt for Rs. 300/- has been fed in the computer on the same day under the same serial number 199. On the basis of the available materials for the circumstances of this incident, the only person who will be monetarily benefited by this action is only the Petitioner.

By doing so, the person who was there in the computer section was not any way benefited. From the way in which the matter has been dealt with, it is seen that without the knowledge of the officer concerned and also the person who was there in the computer section on that day, subsequent to the issuance of computer receipt under Ex. M2 for Rs. 600/- the next receipt No. for Rs. 300/- had been fed in the computer after cancelling the earlier receipt for Rs. 600/- in the computer for one and the same serial number 199. Further it is the evidence of MW1 that an attempt was made for compromising the matter by the Petitioner while cross examining the MW1 on this aspect, it is not suggested to him by the Petitioner charge sheeted employee that he has not made any such attempt for compromise and MW1 is deposing falsely. On the other hand, a question was put to him in the cross examination of MW1 by the Petitioner that 'can he bring the person for the enquiry', for that MW1 has given a reply that 'he has to ask that person'. So from all these materials available it is seen that the Enquiry Officer has come to the conclusion that the charge levelled against the Petitioner has been proved by sufficient evidence. It is specifically averred in the Counter Statement of the Respondent/Management that when the vigilance enquiry was conducted by the Consultant Mr. Angappan that the report was given by the computer operator Mr. Shaji that he had not printed computer receipts under serial number 03113514 and 03113515 and that either the cashier or any other person would have printed the receipt and he had posted the ledger entry as Rs. 300/- after seeing the computer record and that the computer sheet also shows that the receipt for Rs. 600/- had been cancelled and an entry for Rs.300/- had been made in the computer file. In view of his report, the management would have thought it fit not to examine him. In the enquiry also, when the Enquiry Officer has questioned the charge sheeted employee to say whether he has got any defence witness, he has informed him that he has not examined any witness except examining himself. He has also not taken any objection to the averment of the Respondent/Management in the Counter Statement in respect of the report of the computer operator given to the Vigilance Officer as incorrect or prepared by the Respondent/Management for the purpose of this case. So from all these things, it is evidently clear that the findings of the Enquiry Officer cannot be said to be a perverse one without any evidence. As contended by the counsel for the Respondent/Management, the proved misconduct of the Petitioner is grievous in nature and the appropriate punishment for the same is removal of the Petitioner from service. In an institution like the Respondent/Management which is of the financial institution, strict standards to be followed regarding cash/money deposits. For a proved case of fraudulent act involving customers' money, the past records of the Petitioner need not be taken into account. So, the penalty imposed by the Disciplinary Authority for the Petitioner for his proved misconduct is quite

proportionate to the gravity of the misconduct committed by the Petitioner. So, the dismissal order passed by the Respondent/Management against the Petitioner dated 21-7-2000 cannot said to be an unjustified and illegal action of the Respondent/Management. Hence, the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

9. In the result, an Award is passed holding that the Petitioner/Workman Sri G. Sasidharan Nair is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 17th March, 2003.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined:

On either side None

Documents Exhibited:

For the I party/Workman

Ex. No.	Date	Description
W1	30-04-99	Xerox copy of the charge sheet issued to Petitioner.
W2	13-05-99	Xerox copy of the explanation submitted by Petitioner to charge sheet.
W3	3-01-2000	Xerox copy of the enquiry report.
W4	21-03-2000	Xerox copy of the 2nd show cause notice issued to Petitioner.
W5	04-04-2000	Xerox copy of the explanation to 2nd show cause notice Submitted by Petitioner.
W6	21-07-2000	Xerox copy of the order of dismissal passed by Regional Manager.

For the II Party/Management :

Ex.No.	Date	Description
M1	31-08-98	Xerox copy of the deposit receipt for Rs. 300/-.
M2	31-08-98	Xerox copy of the deposit receipt for Rs. 600/-.
M3(1)	23-03-99	Xerox copy of the complaint letter of Mr. Shreekumar in Malayalam.
M3(2)	23-03-99	Xerox copy of the English translation copy of the complaint preferred by Shreekumar.
M4		Original enquiry proceedings

नई दिल्ली, 24 मार्च, 2003

का. आ. 1197.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. ई. ई. आर. आई. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के

बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-3-2003 को प्राप्त हुआ था।

[सं. एल-42012/90/97-आई. आर. (डी. यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 24th March, 2003

S.O. 1197.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Ahmedabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of NEERI and their workman, which was received by the Central Government on 24-3-2003.

[No. L-42012/90/97-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE SMT. N.J. SHELAT, PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL (CENTRAL) AT
AHMEDABAD

Ref. (ITC) No. 2 of 1998

Adjudication
Between :

1. The Scientist & Head,
National Environmental Engineering
Research Institute (NEERI)
Ahmedabad Zonal Laboratory,
Sewage Farm Road, Beyond
Calico Mills, Ahmedabad-380022

2. Apex Security & Detective
Force (O) Ltd.,
M-34-35, Palika Bhavan,
R.K. Puram, Sector 13,
New Delhi-110066.

... First Parties

Vs.

Shri Ajithkumar M.V.
C/o Gujarat Mazdoor Panchayat,
Dr. Lohia Sadan, Odhav Road,
Ahmedabad-380015

... Second Party

In the matter of termination of service of Shri Ajithkumar M.V. of National Environmental Engineering Research Institute, Ahmedabad w.e.f. 10-6-1995.

APPEARANCES:

Shri A.H. Parikh & Shri A.B. Panchal learned advocates for the first party No. 1 and 2, Shri P. Chidambaram, learned representatives for the second party workman.

AWARD

The above-mentioned industrial dispute between National Environmental Engineering Research Institute, Ahmedabad and the concerned workman Shri Ajithkumar M.V. has been referred for adjudication under Section 10(1) (d) of the Industrial Disputes Act, 1947 by the Desk Officer, Government of India, Ministry of Labour, New Delhi's Order No. L-42012/90/97-IR(DU) dated 1-1-1998, to the Industrial Tribunal, Ahmedabad. Thereafter, under an appropriate order it has been transferred to this Tribunal for proper adjudication.

2. The dispute pertains to the termination of one Shri Ajithkumar M.V. who was working under the control and supervision of first party No. 1 i.e. National Environmental Engineering Research Institute w.e.f. 10-6-1995 as is mentioned in the Schedule to the order of reference.

3. The exact terms of reference is as under :—

“Whether Shri Ajithkumar M.V. was working under the Control and Supervision of the management of National Environmental Engineering Research Institute (NEERI). If so, whether the termination of his services w.e.f. 10-6-1995 is justified. If not, what relief is the said workman entitled to”?

4. The second party workman has filed his statement of claim vide Ex. 5 on 12-3-1998 inter alia submitting that he has been working as a Computer Operator in National Environmental Engineering Research Institute (hereinafter referred to as ‘Institute’) since many years; that he has been terminated from service with effect from 10-6-1995; that on the day of termination; his name was shown in the books of first party No. 2 i.e. Apex Security Detective Force (P) Ltd., Security Contractor; that the arrangement between the first party No. 1 ‘Institute’ and the Contractor are sham and bogus; that he has been allotted work by first party No. 1; that he works for first party No. 1; that total control and supervision of the work done by him is in the hands of first party No. 1 ‘Institute’.

The second party workman has further submitted that the first party No. 1 ‘Institute’ has no registration certificate to employ contract labour as watchman and so-called contractor has no license to provide labour to first party No. 1 ‘Institute’; that though he was shown in the books of M/s. Apex Security Detective Force (P) Ltd., a security contractor, he was never doing the work of security; that he was working as a computer operator and was doing other clerical jobs in the first party No. 1 ‘Institute’ and the so-called security contractor is to provide security personnel (watchman) to first party No. 1 ‘Institute’; that his services have been terminated without any order in writing with effect from 10th June, 1995; that no notice of termination is issued to him; that principles of natural justice have been flouted.

The second party workman prays that the first party ‘Institute’ may please be directed to treat him as their permanent workman from the day he is working in first party No. 1 ‘Institute’. The first party No. 1 ‘Institute’ may be further directed to reinstate him on his original post with full back wages and with continuity of service. The first party No. 1 ‘Institute’ may also be directed to pay all the arrears of wages to him with 18% interest and the cost amounting to Rs. 25,000 may also be paid to him by first party No. 1 ‘Institute’.

5. The first party No. 2, Apex Security Detective Force Pvt. Ltd has filed their written statement contesting the present reference vide Ex. 6 on 17-4-1998 inter alia denying various contentions raised by the second party workman and have submitted that after 1-3-1977, first party No. 1 ‘Institute’ could not possibly award a contract for security services to them or any other agency in view of instructions of Government of India, Ministry of Labour, New Delhi vide notification No. S.O. No. 779(E) dated 9-12-1976, wherein it has prohibited “employment of contract labour for watching of building owned or occupied by establishments in respect of which appropriate Government is the Central Government”; that whereas the Government has prohibited employment of contract labour for watching of buildings, their job is that of ensuring that no material belonging to first No. 1 ‘Institute’ goes out of the premises unauthorisedly; that the second party workman, among other candidates was interviewed and found fit to perform security supervisor’s duties; that accordingly, he joined duty in April, 1994 as a security supervisor and continued to work with them till January, 1995; that the second party workman was issued E.S.I. No. 4677966 as well as Provident Fund Account No. DL 12870/1216 under the registration codes of their agency; that at the time of leaving the services, the second party workman was drawing salary for the post of Security Supervisor and was signing for the same in their salary sheets; that the second party workman was their employee and cannot be deemed to be an employee of the principal employer; that the dispute with the first party No. 1 ‘Institute’ is incorrect and baseless.

6. The first party No. 1 ‘Institute’ has contested present reference and filed their written statement vide Ex. 8 dated 5-10-1998 inter alia denying various contentions raised by the second party workman in his statement of claim Ex. 5 dated 12-3-1998 and have submitted that second party workman is not their employee and that at no point of time relation of employer-employee have been established between them; that the second party workman had not gone through any procedure for Abolition of Contract Labour under Contract Labour (Regulation & Abolition) Act, 1970; that the second party workman is not an employee of first party No. 1 ‘Institute’ and therefore there is no master and servant relationship between the two; that the second party workman was working under the supervision and control of first party No. 2 in their premises; that the

second party workman is not their employee and therefore there is no question of termination of services of second party workman from 10-6-1995 without giving any notice or violation of principles of natural justice; that the second party workman was getting payment of wages through first party No. 2 in accordance with the provisions contained in Minimum Wages Act.

The first party No. 1 has denied that the appropriate Government in the present reference is the Central Government; that first party No. 1 'Institute' is the constituent unit of the Council for Scientific and Industrial Research (CSIR), New Delhi, which is the Society registered under the Society's Registration Act, 1860 (XXI of 1860). The first party No. 1 'Institute' has further denied that any breach of Notification dated 8-12-1976 is committed by them. The first party No. 1 'Institute' has further stated in the written statement that provisions contained in Govt. of India, Ministry of Labour, Notification No. SO 779(E) of 8-12-76, whereby Government had prohibited employment on contract labour for watching of buildings owned or occupied by establishment in respect of which appropriate Government is the Central Government, with effect from 1-3-77 is not applicable in the case of CSIR as clarified by CSIR in consultation with Ministry of Labour & Law vide letter dated 17(97/27 E-II) dtd. 30-6-1977. The first party No. 1 'Institute' has prayed that the reference is not maintainable and requires to be rejected.

The second party workman has examined himself vide Ex. 15 on 31-7-2000 in support of his case. Second party workman Shri Ajithkumar M.V. has been cross-examined on 19-2-2001. The second party workman has closed his evidence vide Ex. 21 on 19-2-2001.

7. The first party No. 1 'Institute' has examined one Shri Sunil Ghanshyambhai Dalal, Upper Division Clerk, in support of their case. Shri Sunil Ghanshayam Dalal has been cross-examined on 8-10-2001. The first party No. 1 'Institute' has closed their evidence vide Ex. 29 on 17-6-2002.

8. The first party No. 2 has filed a purshis Ex. 34 dtd. 26-8-2002 stating that they do not want to lead any oral evidence in the matter and therefore their oral evidence may be treated as closed.

9. I have gone through records and papers of the case and have considered arguments of both the parties and find that the concerned workman Shri Ajithkumar M.V. has admitted in his cross-examination on 18-2-2001 that neither he is given any appointment letter by the first party No. 1 'Institute' nor by first party No. 2. He has also admitted that in the pay register which is produced vide Ex. 19, his name is mentioned at Sr. No. 2. He has further admitted that the pay register is of first party No. 2 Apex Security & Detective Force Pvt. Ltd. He has further admitted in his cross-examination that as mentioned in the pay register, ESI contribution, professional tax etc. were deducted from his wages. He has further admitted that what is mentioned

in the pay register (Ex. 19) is true. He has further stated in his cross-examination that he is being shown statement of claim and that he has not prepared the said statement of claim and that he does not know what is written in the statement of claim.

The case of the second party Workman is that he was working with first party No. 1 as a computer operator and he has produced certain documents in support of his case vide list Ex. 7. Mark 7/1 is exhibited as Ex. 24 is an office Memorandum dtd. 16-2-93 of NEERI signed by one Mr. P. Nema, Scientist & Head in which the name of second party workman is stated at Sr. No. 5. The office Memorandum dtd. 16-2-93 is related to distribution of work and second party workman is provided with computer related work, typing of Technical reports, Project proposals and related correspondence. Mark 7/2 is exhibited as Ex. 25, is also an office memorandum dated 11-6-1992 in which the name of second party workman is mentioned at Sr. No. 3 in which he is provided with work of assisting in typing of report/official letters as and when NAQM work. From these documentary evidences, it is found that the Second party workman was working with First party No. 1 "Institute" in the year 1992-93 as a Computer Operator. The First Party No. 1 "Institute" has denied the fact that the Second party workman was working with them. It is the case of the First Party No. 1 "Institute" that there is no employer and employee relationship between them and the Second party workman. The First Party No. 1 "Institute" has mentioned in their written statement at Ex. 8 page No. 6, para No. 11 that "the Complainant is not an employee of the Respondent No. 1 and therefore there is no master and servant relationship at any point of time between the two." It is also the case of the First Party No. 1 "Institute" that the Second party workman was working under the supervision and control of First party No. 2 in the premises of First party No. 1 "Institute". It is crystal clear that documentary evidences produced by the Second party workman vide Exs. 24 & 25 speak otherwise than what is stated in the written statement Ex. 8 by the First party No. 1 "Institute". In my considered opinion, it is not fair and proper on the part of the First party No. 1 "Institute" to hide the fact that at some point of time the Second party workman was working with them. The First party No. 1 "Institute" being Scientific Research Institute should have come out clean and should have mentioned the correct facts before this Tribunal, while filing their written statement Ex. 8 in connection with the actual facts concerning the Second party workman.

From the evidence on record, it is found that the Second party workman was being paid his wages by the First party No. 2. It is also found from the evidence on record that First party No. 1 "Institute" was allotting work to the Second party workman by issuing office memorandum from time to time. It is the case of the First party No. 2 that the Second party workman has abandoned

the job and has stopped coming to work. The First party No. 2 has failed to prove that the Second party workman has abandoned the job and has stopped coming to work by leading cogent and proper evidence before this Tribunal. In this view of the matter and under the facts and circumstances of the case, I am of the opinion that Shri Ajithkumar M.V. was working under the control and supervision of the management of National Environmental Engineering Research Institute (NEERI), I am also of the opinion that the termination of his services with effect from 10-6-1995 is not justified. The second party workman has made certain candid admissions in his cross-examination Ex. 22 which shows his honesty and that he has made honest statements during cross-examination on oath. In this view of the matter and under the facts and circumstances of the case discussed hereinabove, I pass following order:—

ORDER

Shri Ajithkumar M.V. was working under the control and supervision of the management of National Environmental Engineering Research Institute (NEERI). The termination of his services with effect from 10-1-1995 is not justified. The workman Shri Ajithkumar M.V. is entitled to be reinstated on his original post with continuity of service and full back wages with National Environmental Engineering Research Institute (NEERI).

The National Environmental Engineering Research Institute is hereby directed to reinstate Shri Ajithkumar M.V. on his original post with continuity of service and with full back wages within one month from the date of publication of this award. The first party No. 1 'Institute' should pay cost of Rs. 2,500/ (Rupees Two thousand five hundred only) to the workman Shri Ajithkumar M.V.

N. J. SHELAT, Presiding Officer.

नई दिल्ली, 24 मार्च, 2003

का. आ. 1198.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन.एफ. रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, गुवाहाटी, आसाम के पंचाट [संदर्भ संख्या रेफ नं. 12 (C) ऑफ 2002] को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-3-2003 को प्राप्त हुआ था।

[सं. एल-41011/46/2001-आई. आर. (बी.-I)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 24th March, 2003

S.O. 1198.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award [Ref. No. 12 (C) of 2002] of the Industrial Tribunal, Guwahati, Assam now as

shown in the Annexure in the Industrial Dispute between the employers in relation to the management of N.F. Railway and their workman, which was received by the Central Government on 24-3-2003.

[No. L-41011/46/2001-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL: GUWAHATI: ASSAM

REFERENCE NO. 12(C) OF 2002.

PRESENT: Shri H. A. Hazarika, LL.B.,
Presiding Officer,
Industrial Tribunal, Guwahati.
In the matter of an Industrial Dispute
between :
The Management of N.F. Railway,
Maligaon.

-Vs-

Their workmen rep. by the Shri Kalyan Brata Deb.

AWARD

The reference arising out of the Govt. notification No. L-41011/46/2001 (IR-B-II) dt. 30-4-2002 relates to the dispute indicated in the schedule below :

“Whether the action of the N.F. Railway, Maligaon, Guwahati-781011 in denying to make payment/allow of transport allowance w.e.f. August, 97 to February, 2000 in respect of Shri Kalyan Brata Deb, HDM under CSTE, Maligaon is justified ? If not, what relief Shri Deb is entitled ?”

The workman as well as the union are rep. by learned advocate Mr. K.K. Biswas. The management rep. by learned advocate Mr. K.C. Sarma. Perused the verified petition of union Secy. A.K. Ganguli which is filed by learned advocate Mr. K.K. Biswas. It is reflected in the relevant petition that the workman is satisfied in respect of his claim of arrear of transportation allowance for which the matter is referred for adjudication.

Heard the learned advocate of both sides when the workman concern is satisfied and prayed to dispose, the matter. I find no bar for acceptance of petition. Consequently the matter is disposed with a no dispute award.

The relevant petition shall be a part of the award.

H. A. HAZARIKA, Presiding Officer,

नई दिल्ली, 24 मार्च, 2003

का. आ. 1199.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सादर्न रेलवे, चेन्नई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कम लेबर कोर्ट, चेन्नई के पंचाट (संदर्भ संख्या आई. डी.

नं. 699/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-3-2003 को प्राप्त हुआ था।

[सं. एल-41012/74/99-आई. आर.(बी.-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 24th March, 2003

S.O. 1199.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID. No. 699/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Southern Railway and their workman, which was received by the Central Government on 21-3-2003.

[No. L-41012/74/99-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 6th March, 2003

Present : **K. KARTHIKEYAN,**
Presiding Officer

INDUSTRIAL DISPUTE NO. 699/2001

(Tamil Nadu Principal Labour Court CGID No.349/99)

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the workman Sri A. Aruldoss and the Management of Southern Railway, Chennai.)

BETWEEN

Sri A. Aruldoss : I Party/Workman

AND

- I. The General Manager, : II Party/Management
Southern Railway,
Chennai.
2. The Chairman,
Southern Railway,
Railway Board,
New Delhi.

APPEARANCE:

For the Workman : M/s. T.Fenn Walter &
K.V.Dhanapalan,
Advocates

For the Management : Sri A.Babu, Advocate

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-

section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No.L-41012/74/99/IR(B-I) dated 21-9-1999.

This reference has been made earlier to the Tamil Nadu Principal Labour Court, Chennai, where the same was taken on file as CGID No.349/99. When the matter was pending enquiry in that Principal Labour Court, the Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu Principal Labour Court to this Tribunal for adjudication. On receipt of records from that Tamil Nadu Principal Labour Court, this case has been taken on file as I.D. No.699/2001 and notices were sent to the counsel on record on either side informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 29-10-2001 with their respective parties and to prosecute this case further. Accordingly, the learned counsel on either side along with their respective parties have appeared and prosecuted this case further. The Claim Statement of the I Party/Workman and the Counter Statement of the II Party/Management were filed earlier before the Tamil Nadu Principal Labour Court, Chennai, when the matter was pending there for adjudication.

Upon perusing the Claim Statement, Counter Statement, the oral evidence let in on the side of the I Party/Workman and the documentary evidence let in on the side of the II Party/Management alone, the other material papers on record, the written arguments filed by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the action of General Manager, Southern Railway in dismissing Sri A. Aruldoss, Khalasi with effect from 20-8-1997 is justified or not? If not justified, to what relief the workman is entitled?”

2. This dispute has been raised by the I Party/Workman Sri A Aruldoss, challenging the action of the II Party/Management of Southern Railway, Chennai in dismissing the Petitioner from the services of Southern Railway as Khalasi with effect from 20-8-97 by an order passed by General Manager, Southern Railway, Chennai. The brief facts of the case are as follows :—

The Petitioner/Workman Sri A.Aruldoss was initially engaged in the Respondent/Southern Railway as a Casual Labour on daily rate wages from 22-4-1980 in the Mechanical Department under Chief Wagon and Carriage Superintendent, Egmore. He was granted temporary status w.e.f. 22-8-1980 and then he was granted monthly rate of

pay w.e.f. 26-11-1980. He was confirmed as Khalasi w.e.f. 1-10-1991 and was transferred to work under Assistant mechanical Engineer, Carriage, Madras, Basin Bridge on 6-5-1994 at his own request. While working under Assistant Mechanical Engineer, Basin Bridge, the Respondent/railway management had issued a charge sheet dated 29-12-1995 alleging that he was unauthorisedly absented from duty from 6-7-1995 to 7-11-1995. The Petitioner was called upon to submit his explanation to the charge memo. Accordingly, the Petitioner has submitted his explanation dated 19-1-96 stating that he was suffering from severe jaundice and fever and as such he could not attend to his duties from 6-7-95 to 7-11-95 and has requested to excuse him and to treat the said absence from duty as leave. Earlier he had submitted a physical fitness certificate from a Medical Officer, Rural Dispensary and medical certificate for leave from the same Medical Officer for the period 6-7-95 to 7-11-95. When the Petitioner produced that private medical certificate before the Railway Medical Authority, Madras, for fitness certificate to join duty, the said authority issued a fitness certificate dated 8-11-95, but declared the absence period from 6-7-95 to 7-11-95 as not covered under sick leave as per Railway Medical Leave Rules. Having not satisfied with the explanation for the charge memo given to the Petitioner, the Assistant Mechanical Engineer has ordered an enquiry for the acts of misconduct of the Petitioner as alleged in the charge memo. An enquiry was conducted as per Rule 9 of Railway Servants (Discipline & Appeal) Rules, 1968. The Petitioner participated in the enquiry and defended his case. During the enquiry, the Petitioner, charge sheeted employee has admitted before the Enquiry Officer that he has fully satisfied with the enquiry proceedings. The Enquiry Officer in his findings has stated that the charges against the Petitioner had been proved and on the basis of the Enquiry Officer's findings, the Petitioner was removed from service w.e.f. 20-8-1997 by the Senior Divisional Mechanical Engineer by his penalty advice dated 5-8-1997. Challenging that penalty imposed on him by the Disciplinary Authority, the Petitioner preferred an appeal dated 28-8-97 to the Additional/Divisional Railway Manager and the same was dismissed by the Appellate Authority by confirming the order passed by the Disciplinary Authority and the Petitioner has submitted a revision petition dated 1-12-1997 to the Chief Mechanical Engineer, Southern Railway and the said revision petition also was dismissed.

3. When the matter was taken up for enquiry, the Petitioner alone has examined himself as WW 1. No document has been filed on his side as an exhibit. On the side of the Respondent/Management no one has been examined as a witness, but 8 documents have been marked as Ex.M1 to M8. Ex.M1 is the xerox copy of the charge sheet dated 29-12-96 issued to the Petitioner for the alleged misconduct. Ex.M2 is the xerox copy of the muster roll / attendance extract for the Petitioner Sri A. Aruldoss for the period from 6-7-95 to 8-11-95. Ex.M3 is the xerox copy of

the letter dated 19-1-1996 sent by the Petitioner to the Respondent/Management. Ex.M4 is the xerox copy of the enquiry proceedings. Ex.M5 is the xerox copy of the report and findings of Enquiry Officer. Ex.M6 is the xerox copy of the appeal preferred by the Petitioner to the Appellate Authority. Ex.M7 is the xerox copy of the penalty advice dated 28-7-97/5-8-97. Ex.M8 is the xerox copy of the order of the Appellate Authority confirming the penalty imposed by the Disciplinary Authority.

4. The point for my consideration is :—

“Whether the action of General Manager, Southern Railway in dismissing Sri A. Aruldoss, Khalasi with effect from 20-8-1997 is justified or not? If not justified, to what relief the workman is entitled?”

Point :—

5. The Petitioner as WW1 has deposed that he was affected with jaundice from 6-7-95 and hence he could not attend the work for about four months and he reported for duty on 8-11-95 and submitted the certificate issued by the private medical Doctor of Tiruvelangadu who attended on him to the Railway Doctor, who in turn has issued him a fitness certificate and with that he reported for duty and had joined duty on 8-11-95. Then the enquiry was conducted after issuing a charge memo to him stating that he was unauthorisedly absent from duty from 6-11-95 to 7-11-95 and was removed from service w.e.f. 20-8-97 but he was not issued 2nd show cause notice before the order of removal from service was issued to him. It is his further evidence that his past record of service was also not considered and the punishment imposed against him is disproportionate to the alleged misconduct. In the cross examination, he has admitted that after he became a Khalasi he absented from duty from 4-2-89 to 1-6-89 then from 17-7-90 to 12-12-90 without submitting any leave application and for those unauthorised absence punishment were awarded earlier by reduction in his pay for a period of 24 months and later by withholding his increment for six months. It is his further admission that as per rules, for the ailment as a Southern Railway employee, he has to take treatment in the railway hospital but he had not taken treatment, when he was suffering from jaundice for four months from 6-7-1995 to 7-11-1995 and that he attended the enquiry and has answered the questions put by the Enquiry Officer and he received the findings of the Enquiry Officer along with his report. He has further admitted that he knew that there is a hospital in Railway for the railway employees. The documentary evidence and the admission of the Petitioner in his cross examination as WW1 shows that he remained absent for duty from 6-7-95 to 7-11-95 and he had not taken treatment for his alleged ailment of jaundice during that period from the Railway Medical Hospital.

6. It is contended by the Petitioner that in the enquiry proceedings, no witness has been examined by the management and no document has been marked, the

Enquiry Officer and the Disciplinary Authority had failed to consider the medical certificate filed by the Petitioner and the Petitioner has also clearly deposed before the Enquiry Officer that he took treatment from his native place, wherein no railway hospital is there and the Railway Doctor gave the fitness certificate accepting the medical certificate issued by the native Doctor, which amounts to implied admission of the Railway Doctor about the Petitioner's ailment with jaundice during the period of his absence for duty. It is his further contention that the enquiry has not been conducted in a fair and proper manner, then, before removing him from service by the Disciplinary Authority 2nd show cause notice was not issued to the Petitioner and his past record of service was not considered by the Respondent/Management. The Petitioner's meritorious service for the period of 17 years was not considered by the Disciplinary Authority, while imposing the punishment and subsequently by the Appellate Authority, while dismissing his appeal and the revisional authority, while dismissing his revision petition. The enquiry was not conducted in accordance with law and the punishment imposed is highly disproportionate to the charges. Hence, the order passed by the Respondent/Management by dismissing the Petitioner from service has to be set aside and the Respondent/Southern Railway management may be directed by this Hon'ble Tribunal to reinstate the Petitioner in service with continuity of service and back wages and all other attendant benefits.

7 The learned counsel for the II Party/Southern Railway management would contend that the enquiry was conducted by the Enquiry Officer duly observing the discipline and appeal rules. The Petitioner was extended all reasonable opportunity to defend his case and the principle of natural justice was followed in letter and spirit. It is his further contention that as per Rule 521 Railway Establishment Rules Vol. I the application for leave on medical grounds made by railway servant in Group C and D shall be accompanied by medical certificate given by Medical Officer designating as clearly as possible the nature and duration of illness and as per Sub-rule 2 of Rule 521, 'when a railway servant residing outside the jurisdiction of the Railway Medical Officer requires leave on medical certificate he should submit within 48 hours, a sick certificate from the Registered Medical Practitioner and that the competent authority may at his discretion accept the certificate or in case, where it has reasons to suspect the bona fide, he can refer the case to the Divisional Medical Officer for advise or investigation'. So from this it is evidence, the Petitioner who was said to be ill, from 6-7-95 to 7-11-95 has not followed the procedure that he has to adopt, as per the prescribed rules for availing medical leave. It is not disputed that the Petitioner has not informed the authorities about his illness for a period of 154 days. The Petitioner could have informed the Officer regarding his sickness at least through postal letter requesting for leave, which he failed to do so. It is seen from the enquiry

proceedings that the Petitioner was not fully co-operating for the conduct of the enquiry. It is also seen from enquiry proceedings that the Petitioner was given fair and reasonable opportunity to put forth his defence effectively. He has taken part in the enquiry and has accepted the charges levelled against him that he had absented for duty for the said period and he has not applied for any medical leave before he had chosen to remain absent for duty due to his illness and has not got sanction of the leave for the period of his illness from the Respondent/Management. Apart from producing the medical certificate from his native Doctor for his alleged ailment of jaundice during the period of his absence for duty, he has not chosen to examine the native Doctor who issued the medical certificate, to prove the same before the Enquiry Officer. He has also not given satisfactory reason before the Enquiry Officer for not availing the services of the Railway Hospital for his alleged ill-health. As required under the prescribed rules, he has not submitted within 48 hours a sick certificate from the Registered Medical Practitioner when he was obliged to reside outside the jurisdiction of Railway Medical Officer. He himself has admitted in the cross-examination about his past records stating that he was absent from duty from 4-2-89 to 1-6-89 and then 17-7-90 to 12-12-90 without submitting any leave application and for those unauthorised absence punishments were awarded to him by the Disciplinary Authority by reduction in his pay for a period of 24 months and later by withholding his increments for six months. This admission of the Petitioner as WW1 as well as the xerox copy of the Petitioner's service register filed along with the Counter Statement clearly disproves the contention of the Petitioner that he had worked faithfully, efficiently and to the satisfaction of his superiors and that he served under the Respondent for more than 17 years and was meritorious throughout his service and the same was not considered at the time of imposing penalty on him by the Disciplinary Authority. From the available records, it is seen that his past record is not blemishless, on the other hand, it shows that he was a chronic absentee and he was punished several times for his unauthorised absence for work. So, the past record of the Petitioner has not spoken very high at him, on the other hand, it clearly shows that he is a chronic unauthorised absentee for duty and he has been punished by the Respondent/Management very many times for the same. In spite of the fact the Disciplinary Authority has punished him for his unauthorised absence for very many times, the Petitioner has not changed his attitude and continued to remain absent for duty as mentioned in the charge memo. This shows that the earlier punishment imposed by the Disciplinary Authority had not improved his nature and quality and had never bothered and cared for attending his duties regularly. As contended by the learned counsel for the Respondent, the Respondent/Management Southern Railway cannot rely upon such a person, who is a chronic absentee for duty. So, under such circumstances, the Respondent/Southern

Railway management has no other alternative except to remove him from service for the proved misconduct of unauthorised absence for duty of the Petitioner. The reason given by the Petitioner for unauthorised absence also has not been convincingly proved by the Petitioner before the Enquiry Officer by acceptable evidence, as mentioned earlier. Under such circumstances, it cannot be said that the action of the General Manager Southern Railway, in dismissing the Petitioner Sri A. Aruldoss Khalasi w.e.f. 20-8-1997 for his proved misconduct of unauthorised absence for duty is unjustified. Hence, the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

8. In the result, an Award is passed holding that the concerned workman Sri A. Aruldoss, Khalasi is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 6th March, 2003.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

For the I Party/Workman : WW1 Sri A. Aruldoss

For the II Party/Management : None

Documents Exhibited :—

For the I Party/Workman : Nil

For the II Party/Management :

Ex.No.	Date	Description
M1	29-12-96	Xerox copy of the charge-sheet issued to Petitioner.
M2	6-07-95 to 8-11-95	Xerox copy of the attendance register.
M3	19-01-96	Xerox copy of the letter from Petitioner to Respondent/Management.
M4	24-5-96	Xerox copy of the enquiry proceedings.
M5	28-8-97	Xerox copy of the findings of the Enquiry Officer.
M6	28-8-97	Xerox copy of the appeal preferred by Petitioner.
M7	28-07-97/5-8-97	Xerox copy of the penalty advice issued to Petitioner.
M8	25-11-97	Xerox copy of the order of Appellate Authority.

नई दिल्ली, 24 मार्च, 2003

का. आ. 1200.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ

राजस्थान लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण अहमदाबाद के पंचाट, [संदर्भ संख्या (आई.टी.सी.) 3 ऑफ 1993] को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-3-2003 को प्राप्त हुआ था।

[सं. एल-12012/137/92-आई. आर. (बी.-III)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 24th March, 2003

S.O. 1200.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award [Ref. (ITC) No. 23 of 1993] of the Industrial Tribunal, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Rajasthan Ltd. and their workman, which was received by the Central Government on 21-3-2003.

[No. L-12012/137/92-IR (B-III)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE SMT. N.J. SHELAT, PRESIDING
OFFICER, INDUSTRIAL TRIBUNAL (CENTRAL)
AT AHMEDABAD**

Ref. (ITC) No. 23 of 1993

**Adjudication
Between**

1. The General Manager,
Bank of Rajasthan Ltd.,
Regional Office,
Mittal Tower,
'T' Wing, Nariman Point,
Bombay - 21.
2. The Branch Manager,
Bank of Rajasthan Ltd.,
Surat Branch, Nr. Sahara Gate,
Surat - 2.

... First parties.

Vs.

Shri Ramesh Balappa Metikel,
C/o B-34, Jogoswari Baug Society,
Opp : Vimal Park, Arbudanagar Road,
Odhav, Ahmedabad - 15. ... Second party.

In the matter of the action of the management of the Bank of Rajasthan Ltd. in treating Shri Rameshbhai Balappa Metikel as having voluntarily abandoned service w.e.f. 17-10-90 is legal & justified etc.

Appearances : Shri P.F. Jhaveri, Learned Advocate, for the first party.

Shri R.T. Mishra, Learned Advocate, for the second party.

AWARD

The above-mentioned industrial dispute between Bank of Rajasthan Ltd., Surat (hereinafter referred to as 'bank') and the concerned workman Shri Ramesh Balappa Metikel has been referred for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Desk Officer, Government of India, Ministry of Labour, New Delhi's Order No. L-12012/137/92-IR.B.III dated 27-10-1993, to the Industrial Tribunal, Ahmedabad. Thereafter under an appropriate order it has been transferred this Tribunal for proper adjudication.

2. The dispute pertains to the action of the management of the Bank of Rajasthan Ltd. in treating Shri Ramesh Metikel as having voluntarily abandoned service w.e.f. 17-10-90 is legal etc. as is mentioned in the order of reference.

The Exact terms of reference is as under :—

"Whether the action of the management of the Bank of Rajasthan Ltd. in treating Shri Ramesh Metikel as having voluntarily abandoned service of the bank w.e.f. 17-10-90 is legal and justified ? If not, to what relief the workman is entitled to ?"

3. The second party workman has filed statement of claim vide Ex. 2 *inter alia* submitting that he was appointed in the service of the first party bank and posted at Surat as a peon vide order RAJ.BANK/KE.KA.KARMIK/51/Ni.A: DHI/4/9393/86 dated 28-7-1986; that certain members of the Union were hostile because of the fact that the workman was recruited and selected from Ahmedabad and posted at Surat; that since very beginning of appointment undue harassment was meted out by certain staff members who were influential in the Bank by virtue of their position in the Union as they wanted their own persons to be recruited in the Branch; that the first party bank management issued a memo dated 15-5-1987 that some criminal case is allegedly pending against him and that he was asked to disclose where he was staying prior to joining the service; that he replied to the memo stating that he has unblemished record and that he never faced any criminal case anywhere in India; that another letter dated 20-6-1987 stating that the reply of the workman was not sufficient and therefore the workman was asked to submit the addresses, where he stayed for more than 5 years; that this letter was also replied that he was born and stayed only in Ahmedabad and not at any other place.

It is further submitted by the second party workman that he had taken leave from 18-6-1990 for 15 days and thereafter for couple of days he fell sick; that due to mental disturbance and odd circumstances he could not resume his duty upto September, 1990; that in the first week of November, 1990 when he went to resume his duties, the first party bank refused to take him on duty on the ground

that his services have been terminated; that he had not received any termination order.

Second party workman has further submitted that he has taken leave and during the course of his leave, he sent leave application which perhaps have not been taken on record willfully and deliberately and under the garb of remaining absent from duty continuously, first party bank terminated his services under the pretext of voluntary retirement; that the question of abandonment of service or voluntary retirement of service has never arisen as he has never intended so; that no notice has been issued to him and that he has not been given any opportunity to make his submissions against the so-called decision of the first party bank. The second party workman has prayed that first party bank may please be directed to reinstate him on his original post of peon with full back wages and continuity of service.

4. First party bank has filed their written statement vide Ex. 13 on 9-7-1997 *inter alia* denying various contentions raised by the second party workman and have submitted that they had vide their letter dated 18-9-1986 addressed to Shri S.S. Nerker (whose reference was given by the 'second party workman' alongwith his application for appointment) and had asked for certain details from him and accordingly Shri Nerker by his letter dated 10-2-1987 had replied wherein certain astonishing and alarming information was given to them and they had inquired about the correctness of the facts; that the second party workman was offered appointment in the service of the first party bank vide their letter No. Bank/KE/K/KA/AR/RMJK/51/NIADHU/9393/86 dated 28-7-1986 and on terms and conditions mentioned therein; that the second party workman had accepted the offer of the appointment as per the terms and conditions specifically mentioned in the offer and had accordingly reported for duty at the Branch office; that the past record of the concerned workman is blemished and stained one; that the first party bank had inquired into the conduct of the second party workman from the references given by the second party workman; that the second party workman had been remaining continuously absent from duties without submitting any leave application without obtaining any permission from the contents authority with effect from 18-6-1990; that the first party bank wrote letter bearing Reference No. Per/ROBY/6287/90 dated 17-9-1990, calling upon the second party workman to report for duty at its Surat Branch office within 30 days in consonance with the provisions of 'Bipartite Settlement'; that it is clearly stated in the aforesaid letter that if the second party workman fails to report for duty within the aforesaid period, it will be presumed that he had no intention to join his duties and that he will be deemed to have voluntarily retired from the bank's service; that on expiry of the said notice period in terms of clause 17(a) of the 'Bipartite Settlement' dated 10th April, 1989.

The first party has further stated in the written statement that in pursuance of letter bearing Reference No. PER/ROBY/6287/90 dated 17-9-1990 they have issued letter No. PER/ROBY/7361/90 dated 17-10-1990 and treated the second party workman to have voluntarily abandoned service of the first party bank with effect from 17-10-1990 as the second party workman had failed to join his duties within the stipulated period; that the first party had served a letter dated 17-10-1990 to the second party workman's last known address as declared by the second party in his application for appointment in the first party bank by registered post, but the said letter was returned to the first party bank on the ground 'Not claimed/addressee has left the place' by the postal authorities; that the first party has acted illegally as per clause 17(a) of the 'Bipartite Settlement' in treating that the second party workman has voluntarily abandoned his service with effect from 17-10-1990. The first party bank has prayed that the reference may please be dismissed.

5. The second party workman Shri Rameshbhai Balappa Metikel was examined vide Ex. 21 on 8-3-2000 and he has reiterated the facts stated in his statement of claim in his examination in chief. Shri Rameshbhai Balappa Metikel was cross-examined on 28-3-2000 by the first party bank.

6. The second party workman has examined one more witness Shri Harihar Ravishanker Bhatt, vide Ex. 22 on 26-4-2000 in support of his case. Shri Harihar Ravishanker Bhatt has been cross-examined by the first party bank. The second party workman has closed his evidence on 28-6-2000.

7. The first party bank has examined one Shri Yogendra Ratanlal Mundra in support of their case vide Ex. 25 on 14-2-2001. Shri Yogendra Ratanlal Mundra has been cross-examined by the second party workman. The first party bank has closed their evidence vide Ex. 31 on 12-7-2001.

8. I have gone through records and papers of the case and find that it is the case of the second party workman as per statement of claim Ex. 2 that he had taken leave for 15 days from 18-6-1990 and thereafter for couple of days, he fell sick; that due to mental disturbance and odd circumstances he could not resume his duties upto September, 1990; that in the first week of November, 1990 when he went to resume his duties, bank refused to take him on duty on the ground that his services have been terminated from the bank. It is crystal clear from the statement of the second party workman that he went on leave for 15 days from 18-6-1990 and thereafter he could not resume his duties upto November, 1990; i.e. he remained absent for about 5 months. From the statement of claim it is also crystal clear that he could not resume his duties upto September, 1990. As per his own admission, the second party workman has further submitted in his statement of claim that in the first week of November, 1990, he went to resume his duties. The first party bank refused to take him

on duty on the ground that his services have been terminated by the first party bank. The second party workman is stating at one stage that he could not resume his duties up to September, 1990. Again he states that he went to join his duties in November, 1990. These are two contradictory statements made by the second party workman in the statement of claim itself. The second party workman has not given any explanation as to what happened during the month of October 1990? Why did he not resume his duties in the month of October, 1990?

The second party workman has stated in his statement of claim on page 6 Para 4 that he has taken leave and during the course of his leave he sent leave applications which perhaps have not been taken on record willfully and deliberately and under the grab of remaining absent from duty continuously, the bank terminated his services under the pretext of voluntary retirement. It is pertinent to note here that second party workman has neither submitted any copies of the letter addressed to the first party bank for extension of leave, nor submitted even the dates on which he has written letters to the first party bank for extending his leave. It is an undisputed fact before this Tribunal that the second party workman remained absent for about five months and when he went to resume his duties with the first party bank, the first party bank refused to take him on duty on the ground that his services have been terminated.

It is the case of the first party bank that the second party workman remained absent without leave and they wrote him two letters dated 17-9-1990 and 17-10-1990. In letter dated 17-9-1990, the workman was called upon to report for duty at a branch office at Surat within 30 days, in consonance with the 'Bipartite Settlement' failing which, it will be presumed that 'you have no intention to resume your duties and you will be deemed to have voluntarily retired from the bank's services'. Again on 17-10-1990, the first party bank wrote another letter to the second party workman stating that you are hereby informed that in terms of Clause M(a) of the Bipartite Settlement dated 10-4-1989, you have been treated to have voluntarily abandoned services of the bank with effect from 17-10-1990. The first party bank has also stated in the letter dated 17-10-1990 produced vide list Ex. 24/2 that the name of the second party workman is struck off from the rolls of the bank and directed the second party workman to settle his dues with them. The Bipartite Settlement dated 10-4-1989, is not under dispute before this Tribunal. Clause 17(a) of the Bipartite Settlement reads as under :

"Clause 17(a) of the Bipartite Settlement :
Voluntary cessation of Employment by the Employee.
The earlier provisions relating to the voluntary
cessation of employment by the employee in the
earlier settlements shall stand substituted by the
following :—

When an employee absents himself from work for
period of ninety or more consecutive days, without

submitting or without any leave to his credit or beyond the period of leave sanctioned originally/ subsequently or when there is a satisfactory evidence that he has taken up employment in India or when the management is reasonably satisfied that he has no intention of joining duties, the management may at any time thereafter give a notice to the employee at his last known address calling upon him to report for duty within thirty days of the date of the notice, stating inter alia the grounds for coming to the conclusion that employee has no intention of joining duties and furnishing necessary evidence, where available unless the employee report for duty within thirty days of the notice or gives an explanation for his absence within the said period of thirty days satisfying the management that he has not taken up another employment or avocation and that he has no intention of not joining duties, the employee will be deemed to have voluntarily retired from the Bank's service on the expiry of the said notice. In the event of the employee submitting a satisfactory reply, he shall be permitted to report for duty thereafter within thirty days from the date of the aforesaid notice without prejudice to the bank's right to take any action under the law or rules of service."

It is the case of the first party bank that second party workman's services were terminated in accordance with Clause 17(a) of the Bipartite Settlement and that second party workman was given two notices dated 17-9-1990 and 17-10-1990 and was asked to collect his duties, as he did not report for duties after the second notice dated 17-10-1990. Both these notices were sent to the last known address of the second party workman by registered post by the first party bank which were not received by the second party workman and they were sent back by the postal authorities with an endorsement "Not claimed/ addressee has left the place". On the other hand, it is the case of the second party workman that when he went to resume his duties in the month of November, 1990, the first party bank refused to take him on duty on the ground that his services have been terminated. From the record of this case, it is found that the second party workman has not come with clean hands before this Tribunal. In his statement of claim, the second party workman has submitted that he could not resume his duties due to mental disturbance and odd circumstances upto September, 1990 after having taken leave from 18th June, 1990 for 15 days and on the other hand he is stating that in the first week of November, 1990, when he went to resume his duties, the first party bank refused to take him on duty on the ground that his services have been terminated. In my opinion these are two contradictory submissions made before this Tribunal in the statement of claim itself and there is no explanation given by the second party workman as to why he did not report for his

duties in the month of October, 1990 in his statement of claim. On the other hand the case of the first party bank is very clear that they had no mala fide intention in terminating the services of second party workman, but had terminated his services as per the Bipartite Settlement dated 10-4-1989 as the second party workman remained absent without leave for about five months. In this view of the matter and under the facts and circumstances of the case, I find that action of the management of Bank of Rajasthan Ltd. in treating Shri Ramesh Balappa Metikel as having voluntarily abandoned services of the bank with effect from 17-10-1990 as legal and justified. The workman Shri Rameshbhai Balappa Metikel is not entitled to any relief. I therefore pass following order :—

ORDER

The action of the management of the Bank of Rajasthan Ltd. in treating Shri Rameshbhai Balappa Metikel as having voluntarily abandoned service of the bank with effect from 17-10-1990 is legal and justified. The parties to bear their own cost under the facts and circumstances of the case.

Shri Ramesh Metikal is not entitled to any relief.

L.B. KATENH

SECRETARY,

Ahmedabad, Dt. 29-2-2003.

N.J. SHELAT, Presiding Officer

नई दिल्ली, 24 मार्च, 2003

का. आ. 1201.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन.एफ. रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण गुवाहाटी : आसाम के पंचाट [संदर्भ संख्या 18 (सी) ऑफ 2002] को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-3-2003 को प्राप्त हुआ था।

[सं. एल-41012/63/2002-आई. आर.(बी.-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 24th March, 2003

S.O. 1201.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 18 (C) of 2002) of the Industrial Tribunal, Guwahati : Assam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of N.F. Railway and their workman, which was received by the Central Government on 24-3-2003.

[No. L-41012/63/2002-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL : GUWAHATI :
ASSAM

Reference No. 18(C) OF 2002

Present: Shri H. A. Hazarika, LL.B.,
Presiding Officer,
Industrial Tribunal, Guwahati.
In the matter of an Industrial Dispute
Between :
The Management of N.F. Railway,
Maligaon.

Vs.

Their workmen rep. by the General Secy.
Rail Mazdoor Union, N.F. Railway, 27/Rest
Camp, Pandu.

AWARD

The reference arising out of the Govt. order No. L-41012/63/2002-IR (B-I) dt.20-9-2002 relates to the dispute indicated in the schedule below :

“Whether the action of the management of N.F. Railway, Maligaon, Guwahati in denying the promotion of Shri A.K. Chatterjee, DSK-I along with the promotional benefit w.e.f. 1-3-93 as per to his junior Shri Mamat Ali is justified ? If not, what relief Shri A.K. Chatterjee, DSK-I is entitled ?”

For the union learned advocate Mr. K.K. Biswas present. For the management K.C. Sarma present. Perused the petition submitted by the Union Secy. Sri A.K. Ganguli which is filed by learned advocate K.K. Biswas. The petitioner submitted in his petition that the workman concern Sri A.K. Chatterjee left his place for his permanent settlement after retirement and prays to dispose the matter as deem fit and proper. Heard learned advocate Mr. Biswas orally and categorically submitted that the union is no longer to proceed the matter. When the workmen concern make no listen and also not keeping contract. The reason of silence of the workmen I think is due to his retirement he has no longer interested. It is pertinently to look here that the matter is most interested person to pursue the matter of the union. While the union is not interested I think it will be just to dispose the matter with a no dispute award.

The petition submitted by the union is a part of the award.

H.A. HAZARIKA, Presiding Officer

नई दिल्ली, 24 मार्च, 2003

का. आ. 1202.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 95/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-3-2003 को प्राप्त हुआ था।

[सं. एल-12011/142/2001-आई. आर. (बी. II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 24th March, 2003

S.O. 1202.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref. 95/2002 of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India and their workman, received by the Central Government on 24-03-2003.

[No. L-12011/142/2001-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 19th March, 2003

Present: K. KARTHIKEYAN,

Presiding Officer

INDUSTRIAL DISPUTE NO. 95/2002

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Workmen and the Management of Central Bank of India.]

BETWEEN

The General Secretary, : I Party/ Claimant
Central Bank of India Staff Union,
Chennai.

AND

The Regional Manager, : II Party/Management
Central Bank of India, Chennai.

Appearance :

For the Claimant : Unrepresented

For the Management : M/s. T.S. Gopalan &
Co. Advocates

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No.L-12011/142/2002/IR(B-II) dated 11.10.2002.

On receipt of the order of reference from the Government of India, Ministry of Labour, this case has been taken on file as I.D. No.95/2002 and notices were sent to the parties to the dispute by registered post with acknowledgement due, with a direction to appear before this Tribunal on 10-12-2002 to file their respective Claim Statement and Counter Statement and to prosecute this case further. As the notice sent to the I Party/Claimant returned unserved with a postal endorsement 'left', fresh notice was ordered to the I Party/Claimant Union for the hearing 26-12-2002. The fresh notice sent to the I Party/Claimant Union by RPAD also returned unserved with postal endorsement 'left'. The II Party/Management

entered appearance through their counsel. As there was no representation for the I Party/Claimant Union and no Claim Statement of the I Party was filed, the case was adjourned to 10-01-2003 directing the II Party/Management to file their statement of objection if any, for the referred dispute raised by the I Party/Claimant with a copy of the petition filed earlier by the I Party/Claimant for conciliation before the Conciliating Authority. After granting time, the II Party/Management filed their statement of objection with an affidavit of the Branch Manager of the Respondent/Bank along with a copy of the petition filed by the Petitioner Union earlier before the Assistant Labour Commissioner (Central). After hearing the counsel for the II Party/Management, orders were reserved to pass the award on merits with the available materials on record.

Upon perusing the order of reference, Statement of objection filed by the II Party/Management, the other material papers on record, after hearing the arguments advanced by the learned counsel for the II Party/Management alone and this matter having stood over till this date for consideration, this Tribunal has passed on merits, the following :—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the demand of Central Bank of India Staff Union in the case of Smt. Radha, Water-woman-cum-casual labour for reinstatement with continuity of services and back wages with all attendant benefits against the management of Central Bank of India is legal and justified? If so, what relief the workman is entitled to?”

2. The II Party/Management Central Bank of India, Chennai has filed a statement. The averments in their statement are briefly as follows :—

The job of Part-Time Safai Karmachari (PTSK) is to clean the premises, dust the tables and chairs and also to fill up water if there was water supply connection. The Sowcarpet branch of the Central Bank of India at No. 322, Mint Street, Chennai did not have any well or manual water supply connection. The branch had to make alternate supply of water to meet the requirements of the branch. One Mrs. Annammal used to bring water from nearby water pump and she was used to be paid fixed charge per day. The last rate of charges being Rs. 60/- per day. The concerned woman Smt. Radha is the daughter of Smt. Annammal and whenever Annammal did not turn up, the concerned woman used to fetch water for which she was used to be paid the normal charges as were payable to Annammal. Whenever PTSK does not turn up for work, the branch used to engage any other woman menial who is readily available

and pay her fixed charges. The rate of charges during the relevant period being Rs. 25/- per day. Sometimes, the concerned woman might have been engaged to do cleaning work in the absence of permanent PTSK and she might have been paid the charges for cleaning. The concerned woman was never employed in the II Party/bank and therefore, the I Party's claim before the conciliation officer that she had worked for 12 years cannot be accepted. By its letter 1-6-2001 the I Party/Union purported to raise an industrial dispute seeking that the concerned woman should be absorbed as a permanent PTSK. It is not correct to say that she was engaged for performing the duties of PTSK. She had only brought water whenever her Mother was not able to supply water and she might have been engaged as a temporary cleaner during the absenteeism of the permanent PTSK. She was never employed in the service of the bank. The union made the demand seeking appointment as a permanent employee, therefore; did not raise a dispute alleging any termination of employment. To the knowledge of the II Party the Petitioner Union does not command membership from among the substantial section of the workmen of the II Party's establishment. It is also not admitted that the Petitioner Union has representative character to raise the present dispute. A substantial workmen of the II Party's establishment have not authorised the Petitioner Union to take up the cause of the concerned woman. The union has no competence or authority to raise the dispute over the cause of the said woman. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to make an award answering the reference against the I Party.

3. The Branch Manager of the Sowcarpet branch of the II Party has filed a separate affidavit and had produced the copy of the letter dated 1-6-2001 and 22-8-2001 of the I Party/Union and a bunch of vouchers (number in 6) for the payments made to the concerned woman Smt. Radha. He has stated in his affidavit that he is aware of the dispute raised by the I Party/Union and that the branch has a compliment of permanent award staff which included one sub-staff and one part-time safai karmachari. It is his further averment that the branch was shifted from No. 322 Mint Street to No.472 Mint Street, Chennai and in the new premises, there is municipal water supply and therefore, they have discontinued the practice of getting water from outside source and as such the need for engaging any one to get the water supply is ceased and that Annammal continued to supply water till the branch was shifted from No. 322 to No. 472 Mint Street, Chennai.

4. When the matter was taken up for enquiry, the learned counsel for II Party/Management had advanced his arguments and requested this Tribunal to consider the Xerox copy of the three documents filed along with the affidavit filed by the Branch Manager as Annexure 'A' to

'C' as management documents. The statement filed by the II Party/Management, the affidavit of the Branch Manager and the documents filed along with that affidavit along with other materials available in this case and the arguments advanced by the learned counsel for the II Party/Management were considered.

5. The point for my consideration is—

“Whether the demand of Central Bank of India Staff Union in the case of Smt. Radha, Water-woman-cum-casual labour for reinstatement with continuity of services and back wages with all attendant benefits against the management of Central Bank of India is legal and justified? If so, what relief the workman is entitled to?”

Point:

This industrial dispute has been raised by the General Secretary, Central Bank of India Staff Union, Chennai, making a demand with a II Party/Management Central Bank of India, Chennai for reinstatement with continuity of service and back wages with all attendant benefits for the Water-woman-Cum-Casual Labour Smt. Radha. This industrial dispute has been referred by the Ministry to adjudicate the demand of the I Party/Union and to decide as to whether the demand made by the I party/Union is legal and justified and if so, what relief the concerned woman will be entitled to. Though twice notices have been sent to the I Party/Union by registered post with acknowledgement due, on receipt of the order of reference from the Ministry and taken it on file as I.D. No. 95/2002 to the given address of the I party/union in the order of reference, both the notices were returned unserved with the postal endorsement that the 'addressee has left'. It is seen from the order of reference received from the Ministry that the copy of the order has been sent to the I Party/Union to the given address with a direction to file the statement of claim with relevant documents and list of witnesses in this Tribunal within 15 days from the receipt of the order of reference by the I Party/Union. For all these things, there is no representation by the I Party/Union before this Tribunal to put forth its contention in respect of the industrial dispute raised by the Union as referred to in the schedule of reference. So, the II Party/Management Central Bank of India, Chennai, who is represented by their counsel was directed to file their statement of objection for the dispute referred to in the order of reference which was raised by the I Party/Union. Accordingly, the II Party/Management has filed their statement of objection to the demand made by the Union mentioned in the order of reference as an industrial dispute along with the affidavit of the Branch Manager with the xerox copy of the documents. The learned counsel for the II Party/Bank Management has also advanced his arguments on the basis of the averments in the statement of the II Party/

Management and also relied upon the copies of documents filed by the II Party/Management through its Branch Manager by his affidavit. It is seen that the woman Smt. Radha referred to in the schedule of reference as Water woman cum Casual Labour has been mentioned in the statement of the II Party/Management that she is the daughter of one Mrs. Annammal, who was engaged by the branch to bring water from nearby water pump for a fixed charge of Rs. 60 per day and that the said Smt. Radha used to fetch water whenever her mother Annammal did not turn up and she was paid the normal charges that was payable to Annammal. It is also contended by the II Party/Management that whenever the part-time safai karmachari of the branch does not turn up for work, the branch used to engage any other woman menial who is readily available and pay her the fixed charge of Rs. 25 per day and Smt. Radha might have been engaged to do cleaning work in the absence of permanent PTSK and she might have been paid the charges for cleaning. It is the specific averment of the II Party/Bank management that the concerned woman Smt. Radha was never employed in the II Party/Bank. In support of this averment in the statement of the II Party/Management, xerox copies of the documents have been filed by the II Party/Management as Annexure to Branch Manager's affidavit. The first document is the xerox copy of the letter dated 1-6-2001 sent by the I Party/Union to the Assistant Labour Commissioner (Central), Central II, Chennai, as an industrial dispute raised by the Union for non-grant of permanent employment to Smt. Radha, water girl/Casual Labour. It is mentioned in that letter that the said Smt. Radha is working as water girl/Casual Labour for more than 13 years at Sowcarpet branch and she is performing all the duties entrusted to her without any complaint. As the management has failed to make the concerned Smt. Radha as permanent sub-staff in their bank, the union is requesting the Assistant Labour Commissioner (Central-II), Chennai to conciliate the matter in this regard and to instruct the management to make her a permanent employee in their bank with retrospective effect and with all attendant benefits thereto. The next document is the xerox copy of the another letter dated 22-8-2001 sent by I Party/Union to the Assistant Labour Commissioner (Central-II), Chennai as the rejoinder to the II Party/Management reply. In that it is alleged that the Regional Manager has denied that Smt. Radha, water girl/Casual Labour has not worked for 240 days in a continuous period of 12 months, but she has worked continuously for more than 12 years. For all these contentions, the I Party/Union has not come forward to place any materials before this Tribunal. On the other hand, the II Party/Management has taken a stand in their statement that the Petitioner Union does not command membership from among the substantial section of the workmen of the II Party/establishment and the Petitioner Union cannot raise this present dispute in a representative character as a substantial workmen of the II Party/establishment have not authorised the Petitioner

Union to take up the cause of the concerned woman Smt. Radha and that the Union has no competence or authority to raise a dispute over the cause of the said woman. For this specific contention of the II Party/Management, there is no answer from the I Party/Union. But they have chosen to remain absent without appearing before this Tribunal and by filing their Claim Statement for the industrial dispute raised and to put forth their respective contention. For their earlier representation before the conciliating authority also, no substantial evidence has been placed before this Tribunal to come to the conclusion that the stand taken by the I Party/Union on behalf of the concerned woman Smt. Radha is true and correct. The other documents are the Xerox copies of a bunch of 6 vouchers for the payments made to Smt. Radha. A perusal of these vouchers go to show that under the head of account—Profit & Loss, amounts have been paid to Smt. Radha on various dates as charges for the work done by the woman Smt. Radha. It is seen from these vouchers that she has been paid Rs. 60 as water charges, Rs. 25 for cleaning the premises on different dates. These documents go to show that the contention of the Respondent/Management in their statement and also the averment of the Branch Manager's affidavit that the concerned woman Smt. Radha was engaged by the branch as a woman menial, who was readily available whenever the PTSK does not turn up for work and whenever her mother Annammal did not turn up, she used to fetch water and charges at the rate of Rs. 60 per day was paid for bringing the water from the nearby water pump. So from all these facts, it is seen that the concerned woman was never employed in the service of the bank as a temporary sub-staff and she was engaged at times of need for bringing water from the nearby water pump and also to attend to cleaning work, whenever PTSK does not turn up for work on payment of fixed charges. Contra to these averments in the records filed by the II Party/Management, no evidence has been placed before this Court by the I Party/Union in support of their stand taken earlier before the conciliating authority that the concerned woman Smt. Radha was working as a water girl /Casual Labour for more than 12 years and the management has to absorb her on permanent basis as a permanent employee in the bank. Further, there is no material placed before this Tribunal by the I Party/Union that it has competence or authority to raise a dispute over the cause of the said woman and the Petitioner Union has representative character to raise the present dispute. Under such circumstances, on the basis of the materials available in this case, it can be concluded that the demand of the I Party Union/Central Bank of India Staff Union on behalf of Smt. Radha for reinstatement with continuity of service and back wages and all attendant benefits in the Respondent Central Bank of India management is not legal and not justified. So the concerned woman is not entitled to any relief. Thus the point is answered accordingly.

6. In the result, an Award is passed holding that the concerned woman Smt. Radha is not entitled to any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 19th March, 2003.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Exhibited :—

On either side : Nil

नई दिल्ली, 24 मार्च, 2003

का. आ. 1203.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. जिलागोरा कोलियरी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 136/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-03-2003 को प्राप्त हुआ था।

[सं. एल-20012/227/97-आई. आर. (सी. I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 24th March, 2003

S.O. 1203.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 136/98) of the Central Government Industrial Tribunal-II, Dhanbad, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL Jeolgora Colliery and their workman, which was received by the Central Government on 21-03-2003.

[No. L-20012/227/97-IR(C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Present :

SHRI B. BISWAS, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 136 OF 1998

PARTIES : Employers in relation to the management of Jeolgora Colliery of M/s. BCCL and their workman.

APPEARANCES:

On behalf of the workman : None

On behalf of the employers : Shri H. Nath, Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 25th February, 2003

ORDER

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/227/97-I.R. (C-I), dated, the April, 1998.

SCHEDULE

“Whether the demand of the union in demanding regularisation of Shri M. Zama as Sr. Store Keeper in Tech. Grade ‘B’ is justified? If yes, to what relief the concerned workman is entitled?”

2. In this reference neither the concerned workman nor his representative appeared before this Tribunal. However, only the management made their appearance in it. It is seen from the record that the instant reference was received by this Tribunal on 25-5-98 and since then it is pending for disposal. Registered notices were also issued to the workman but inspite of the issuance of notices the workman side has failed to turn up. In terms of Rule 10B of the I. D. Central Rules, 1957 submission of W.S. by the concerned workman within 15 days is a mandatory one. The concerned workman not only violated the said provision of the rules but also did not consider necessary to give any response to the notices issued by this Tribunal. In natural course the question which will arise is what will be the fate of the reference made by the Ministry for its disposal. The reference is made on the basis of dispute raised by the concerned workman/union. Naturally responsibility rests with the concerned workman/union to assist the Court to dispose of the reference in issue on merit. In view of the decision reported in 2002(94) FLR 634 it will not be just and proper to pass ‘No dispute’ Award when both the parties remain absent. There is also no scope to answer the reference on merit in absence of any W.S. and available documents. There is no dispute to hold that when any reference is made it is expected to be disposed of on merit but when the parties do not take any step or do not consider even to file W. S. such expectation to dispose of the reference on merit comes to an end. It is not expected that for years together the Court will pursue the matter suo moto with the expectations for appearance of the parties inspite of issuance of registered notices. As per I.D. Act the workman, excepting under provisions of Section 2A is debarred from raising any industrial dispute. The disputes are mainly raised by the union for their workmen. These unions inspite of receiving notices do not care to appear

before the Court for the interest of the workman and as a result they have been deprived of getting any justice. Untill and unless the attitude of the union is changed I consider that this uncalled for situation will persist. Definitely it is the duty of the Court to dispose of the reference on merit but it depends on the cooperation of both sides. Here the record will clearly expose that sufficient opportunities had been given to the parties but yielded no result. This attitude shows clearly that the parties are not interested to proceed with the hearing of the case for disposal on merit.

In view of the facts and circumstances, I also do not find any sufficient reason to drag on the case for an indefinite period. Accordingly as there is no scope to dispose of the reference in question on merit, the same is closed.

B. BISWAS, Presiding Officer

नई दिल्ली, 25 मार्च, 2003

का. आ. 1204.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीनियर सुपरिन्टेन्डेन्ट ऑफ पोस्ट ऑफिसों के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलौर के पंचाट (संदर्भ संख्या 46/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-3-2003 को प्राप्त हुआ था।

[सं. एल-40012/45/2000-आई. आर. (डी. यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 25th March, 2003

S.O. 1204.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 46/2000) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Sr. Supdt. of Post Offices and their workman, which was received by the Central Government on 25-03-2003.

[No. L-40012/45/2000-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT

“Shram Sadan”,

G.G. Palya, Tumkur Road,

Yeshwantpur, Bangalore-560 022

DATED : 3rd March, 2003

PRESENT : Shri V.N. KULKARNI
Presiding Officer

C.R. No. 46/2000

नई दिल्ली, 25 मार्च, 2003

I Party

Sh R. V. Chopra
S/o R. Rama Rao,
C/o V. N. Sharma,
Gouli Halli,
V. Ward, Brucept,
BELLARY-583 101.

II Party

The Senior Superintendent
of Post Offices, Bellary
Division,
BELLARY-583 101.

Appearances

I Party : None

II Party : Sheela L. S.; Advocate

का. आ. 1205.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल प्लांटेशन क्रोप्स रिसर्च इंस्टिट्यूट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बेंगलूर के पंचाट (संदर्भ संख्या 91/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-3-2003 को प्राप्त हुआ था।

[सं. एल-42012/40/99-आई. आर. (डी. यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 25th March, 2003

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-40012/45/2000/IR(DU) dated 21-06-2000 for adjudication on the following schedule.

SCHEDULE

“Whether the action of the management of Sr. Supdt. of Post Offices, Bellary Division, Bellary in terminating the services of Sh. R. V. Chopra w.e.f. 31-7-99 is justified? If not, to what relief the workman is entitled?”

2. Workman was working with the Management. He was terminated from the services and therefore, the Industrial Dispute is raised.

3. I party appeared and filed Claim Statement.

4. Management also filed Counter Statement.

5. After this, I party workman has sent a Memo asking permission to withdraw the case. Accordingly,

ORDER

Permission is granted to withdraw the case and dispute is disposed off.

(Dictated to the L D C in open court, transcribed by him, corrected and signed by me on 3rd March, 2003).

V. N. KULKARNI, Presiding Officer

S.O. 1205.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 91/99) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Plantation Crops Research Instt. and their workman, which was received by the Central Government on 25-3-2003.

[No. L-42012/40/99-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

“Shram Sadan”,
G.G. Palya, Tumkur Road,
Yeshwantpur, Bangalore-560 022.

DATED : 12th March, 2003

PRESENT : Shri V. N. KULKARNI
Presiding Officer

C.R. No. 91/1999

I Party

Sh Ananda,
S/o S. Sanjeeva,
Kudukorigudda,
Kankandy Post,
Mangalore - 575 002.

II Party

The Director,
Central Plantation Crops
Research. Institute,
Kundlu, P.O.,
Kasargod - 671 124.

Appearances :

- I Party : Ramesh Upadhyay & S. N. Bhat
Advocates
- II Party : S. V. Shastri, Advocate

AWARD

I. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-42012/40/99/IR(DU) dated 27-07-1999 for adjudication on the following schedule.

SCHEDULE

“Whether the action of the management of Central Plantation Crops Research Institute (Indian Council of Agricultural Research), Kasargod, Kerala in not considering the case of Sri Ananda, Ex.Climber for reinstatement and regular employment on the plea that he is overaged is legal and justified ? If not, to what relief the said workman is entitled ?”

2. I party workman was working with the Management. He was not reinstated and was not taken as regular employee and therefore Industrial Dispute is raised.

3. Parties appeared and filed claim statement and counter respectively.

4. The case of the workman in brief can be narrated as under :

5. I party was appointed as Climber on consolidated pay of Rs. 1,100.00 per month from 24-09-1992 at CPCRI SEED FARM at Kidu, Dakshina Kannada. He has been continuously working as a Climber. There were no complaints against him. He was terminated by an order dated 28-02-1994 which is not correct. Some other 7 employees were also terminated. It is his further grievance that subsequently except him all other employees service whose services were terminated along with him were re-appointed and they are working. I party has been attending the Regional Station and requesting for reinstatement but he was asked to wait and ultimately he has not been reinstated. He was sponsored by the Employment Exchange and the Management appointed the workman as Climber with effect from 24-09-1992. It is his further case that while terminated mandatory requirements of Industrial Disputes Act, 1947 are not complied with. I party for these reasons and some other reasons has prayed to pass award in his favour.

6. As against this, the case of the Management in brief is as under :

7. It is the case of the Management that Central Plantation Crops Research Institute (CPCRI) is an Institution functioning under Indian Council of Agricultural Research (ICAR), a Registered Society under the Societies Registration Act, 1860 and fully financed by the Government of India, Ministry of Agriculture, conducting research on Plantation Crops. Regarding its functioning details are given.

8. It is the further case of the management that the workman was appointed under a ad hoc scheme entitled ‘Production of genetically superior high yielding planting materials of arecanut’ and the appointment was purely temporary. He was appointed through Employment Exchange along with 7 others. This workman and others worked till the termination of the period of scheme. Consequently upon the expiry of the aforesaid scheme the services of workmen came to an end. This was as per the terms and conditions of the appointment order itself. It is the further case of the Management that some others were regularly appointed except this workman. They were appointed considering their experience and they were earlier sponsored by the Employment Exchange and they were called as fresh nominees and were selected under Group ‘D’ regular posts of Climber-cum-Mazdoor in 1994. It is the further case of the Management that after a lapse of 4 years and 8 months of the termination of the said ad-hoc scheme, the workman represented the Institute i.e. o

28-10-1998 to give him regular appointment. But as per the recruitment rules applicable to Central Government Employees and employees of the Institute, the age limit for appointment against the regular post of Group ‘D’ is 25 for General, 28 for OBC and 30 for SC/ST. The date of birth of the applicant is 16-05-1965, he has crossed the age limit of 30 years and he is not eligible for regular appointment.

9. It is further said that the Management does not come under the Industrial Dispute Act. Management for these reasons and some other reasons has prayed to reject the reference.

10. It is seen from the records that the Management examined one witness MW 1 and closed the case. On behalf of Management number of documents were marked.

11. Against this, the workman filed affidavit as evidence and he was cross examined.

12. I have heard both the counsels at length. I have carefully perused the records. I have read the evidence and also considered the decisions relied by the Management.

13. According to the evidence of MW 1 workman was appointed under a scheme and it was purely temporary appointment. He also said that on the expiry of the scheme automatically services of the I party came to an end. Ex. M-1 is the appointment order of the workman. It is an established fact that the appointment of the workman was under a scheme namely 'Production of genetically superior high yielding planting materials of arecanut' of CPCRI. According to the appointment order Ex. M-1 the appointment was temporary for a period of one year till the termination of the above referred scheme. With this, it is clear that the appointment was under a particular scheme for a specific period and therefore, there is no merit in the arguments of the learned counsel appearing for the workman that the workman has worked continuously for more than 240 days and he is deemed to be in service and Management has not complied with the provisions of 25 (F) of the Industrial Dispute Act and the termination is bad.

14. From the material before us and from the records, it is clear that it is not a case of termination. I party workman in his cross-examination has said that he accepted the terms and conditions of Ex. M-1 and reported for duty. He also admits that he was appointed under a scheme and he was removed after the completion of the scheme.

15. The learned counsel appearing for the Management has relied on the following decisions :

1. AIR 1997 Supreme Court 1855.
2. W.A. No. 466/2000 dated July 10, 2000, and
3. W.A. No. 1210 of 1991 dated 19th March, 1998.

16. Keeping in mind the principles held in W.A. No. 466/2000 dated July 10, 2000. I am of the opinion that the case of the workman is not retrenchment at all. The next contention of the Management as per MW 1 is that subsequently some other workmen were regularly appointed but by the time, I party workman approached the management, he was over aged. Workman has admitted in his cross-examination that he gave representation in writing in October 1998. He also admitted that in October 1998 he was over aged. He says that his case was not considered because he was age barred. It was argued by the learned counsel appearing for the Management that till 1998 this workman did not approach the Management by giving application for re-employment. The required age

was 30 years for SC/ST category under which the workman comes. It was argued by the learned counsel appearing for the workman that in the year 1994, I party was not regular employee and at that time he was not over aged and therefore, there is injustice to this workman. There is no merit in this argument because the workman himself has said that only in the year 1998 he gave written representation. By that time he was over aged and the Management could not recruit him as regular employee as per rules.

17. It is clear from the records that the workman was appointed under a particular scheme and he was removed after the completion of the scheme and he could not be appointed as regular employee because by the time he gave application he was over aged. I have given my best consideration to the material before me and I am of the opinion that there is no merit in this reference and accordingly, I proceed to pass following order :

ORDER

Reference is rejected.

(Dictated to the L D C in camp court, transcribed by him, corrected and signed by me on 12th March, 2003)

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 25 मार्च, 2003

का. आ. 1206.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी. आई. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद (संदर्भ संख्या 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127 और 128/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-03-2003 को प्राप्त हुआ था।

[सं. एल-22013/1/2003-आई. आर. (सी. II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 25th March, 2003

S.O. 1206.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127 and 128/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 24-03-2003.

[No. L-22013/1/2003-IR(C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD

PRESENT

Shri E. Islam

Presiding Officer

Dated, 28th day of February, 2003

INDUSTRIAL DISPUTES L.C.I.D Nos. 115,
116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126,
127 & 128/2002

(Old I.D. Nos. 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71,
 72, 73 & 121/97 transferred from Industrial Tribunal-
 cum-Labour Court, Guntur)

BETWEEN:

1. Sri Md. Habibulla,
2. Sri T. Ramakrishna Murthy,
3. Sri Ch. Gladly,
4. Sri Mamidala Venkateshwarlu,
5. Sri P. Venkateswarlu,
6. Sri T. Sambaiah,
7. Sri Somavarapu Mallikharjuna Rao,
8. Sri S. Brahma Reddy,
9. Sri Sd. Masthan,
10. Sri N. Nageswara Rao,
11. Smt. B. Teresamma,
12. Smt. G. Suseela,
13. Sri A. Suri Babu, and
14. Sri Dokina Venkat Rao ...Petitioner/Workmen

AND

1. The Senior Regional Manager,
Food Corporation of India,
Hacca Bhavan, Hyderabad.
2. The District Manager,
Food Corporation of India,
Guntur. ...Respondents

APPEARANCES:

For the Petitioner : M/s. V. Vishwanathan, C. Ravimohan,
R. Devendar Reddy, Ch.
Satyanarayana & C. Srinivas Reddy,
Advocates.

For the Respondent : M/s. B. G. Ravindra Reddy, S.
Prabhakar Reddy & B. V.
Chandrasekhar, Advocates.

COMMON AWARD
(IN 14 BATCH CASES)

These batch cases I.D. Nos. 61/97, 62/97, 63/97,
 64/97, 65/97, 66/97, 67/97, 68/97, 69/97, 70/97, 71/97, 72/97,
 73/97 and 121/97 are transferred from Industrial Tribunal-

cum-Labour Court, Guntur in view of the Government of India, Ministry of Labour's Order No. H-11026/1/2001-IR (C-II) dated 18-10-2001 and renumbered in this Court as L.C.I.D. Nos. 115/2002, 116/2002, 117/2002, 118/2002, 119/2002, 120/2002, 121/2002, 122/2002, 123/2002, 124/2002, 125/2002, 126/2002, 127/2002 and 128/2002 respectively. These cases are taken under Sec. 2 A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. It is submitted that the Petitioners worked as unskilled labourers, in Food Corporation of India with effect from 1-9-1977 to 7-11-1981 in Modern Rice Mill at Sattenapalli. In November, 1981 all the casual labourers including the petitioners had been brought under the control of the contractors who were entrusted with the contracts of Engineering, Technical Sections of M.R.M Sattenapalli. They worked under various contractors. It is submitted that the Petitioners were paid difference of wages for the period from 1-9-77 to August, 1981 by cheque drawn by Food Corporation of India. In addition to the payment of bonus for the year 1981. It is submitted that as per the Circular No. EP.1(4)/85 Vol. III dated 6-5-1987 the Petitioners have completed more than 3 months of service as on 5-6-86. In fact they have completed more than 3 years of service directly under the Food Corporation of India and 5 years of service through contractors. Therefore, the Petitioners are fully eligible for absorption/regularization in category IV posts.

3. The Petitioners filed WP No. 17306/89 seeking regularization. That the WP was disposed off by the Hon'ble High Court on 5-10-94 with a direction to consider the case of workmen for regularization. That the Corporation filed WA No. 276/95 directing the workmen to approach the Labour Court for adjudication of disputed questions of facts by allowing the said appeal. It is relevant the similarly situated persons Smt. Gudipudi Dayamma and others who approached the Hon'ble High Court vide WP No. 11963/84 were appointed as regular sweepers/watchman. That during 1989-90 the Corporation has regularized the services of number of persons employed on daily rated part time sweepers/scavengers/watchman in South Zone by issuing Circular No. H.ii/6(2)/89 dated 3-10-89. It shows that these persons employed between 1972—1988. And they were not sponsored by Executive Engineer and not against sanctioned strength. The cases of the Petitioners also stands on the same footing. During November, 1981 the Petitioners were transferred to the fold of contractor for undertaking the work of loading and unloading at Modern Rice Mill, Sattenapalli. The said action of the respondents amounts to change of service conditions and no notices were issued under Sec. 9A of the I.D. Act. Hence, there is violation of Sec. 9A of the I.D. Act. The Petitioners have completed more than 240 days of service in a year under

the Respondent. There is direct relationship of 'Master' and 'Servant' between the Respondent and the Petitioners. The Petitioners have been agitating for regularization of the services in the Food Corporation of India. There are number of vacancies available in the Food Corporation of India where these workmen can be accommodated. The Respondents are trying to evade the relationship of 'Master' and 'Servant' between them having utilized the services of the Petitioners for a considerable length of time as casual labour. It is unfair and unjustified on the part of the Corporation in not absorbing/regularizing the services of the Petitioner. The said action of the Respondent in not absorbing/regularizing the Petitioner is illegal, arbitrary and without any justification. All the records pertaining to the Petitioner are transmitted to the Unit Officer of Sattenapalli to the 2nd Respondent, but so far no action has been taken for regularization. It is a clear case of victimization. In spite of their best efforts the petitioners could not procure any employment either in public sector or private undertaking. There are many instances where the persons engaged in casual daily rated basis were regularized by duly relaxing the age and educational qualifications and sponsorship from Employment Exchange. Hence, Respondents may be directed to regularize the Petitioners as Helper, Watchman or any other suitable Class-IV post with all consequential benefits from the date of their initial appointment.

4. A counter was filed on behalf of the Respondents stating that the Petitioners were unskilled casual labourers in Food Corporation of India from 1-9-77 to 7-11-81 at M.R.M., Sattenapalli are all false. The Unit at MRM, Sattenapalli engaged certain casual labourers for the technical, Depot and miscellaneous work depending upon the exigencies of work. The Petitioners in question never worked as unskilled casual labourers in MRM, Sattenapalli. As per the available record some persons having names of the Petitioners worked as casual labour as and when there was work with breaks in MRM during the period from 1978 to 1981. They did not put in 240 days of continuous service in a period of one year. They themselves discontinued to work as casual labour. The MRM was closed from October, 1994 and machinery was dismantled and disposed off by way of auction as per the policy decision of the Headquarters, New Delhi. The allegation that he was paid the difference of wages, perks etc. are all false. During 1978 the workmen at Sattenapalli filed I.D. No. 15/78 in the Industrial Tribunal, Hyderabad for payment of revised wages of Rs. 6.95 ps. per day instead of Rs. 5.45 ps. per day. An award was passed in favour of time rated workers only and the Food Corporation of India paid difference of wages amounting to Rs. 1.50 ps. for which time rated workmen as per the attendance register available in the records. The Petitioners were also among such time rated workers. Actually, difference amount was paid to the Petitioners. The circular mentioned states that the casual/daily rated employees who have been performing the duties of regular employees of the Corporation under Food Corporation of

India and who have completed three months period of services as on 2-5-86 and possess the requisite qualification was only be considered for regularization in Food Corporation of India. It is very clear that this decision would not apply to part time casual employees and casual labourers/workers and they shall not be regularized. The contention of the Petitioners that the circular covers them is not correct. That in the WP 17306/89 the Hon'ble High Court directed the Food Corporation of India to consider the case of the Petitioners if they had completed five years of service, either directly engaged by Food Corporation of India or through the contractor appointed by the Food Corporation of India or more period. The Food Corporation of India challenged the same by way of WA No. 276/1995. The Hon'ble Division Bench allowed the appeals and set aside the orders of the Hon'ble Single Judge. The records did not reveal that the Petitioners had worked for more than 5 years. In the case of Smt. Dayamma, the Food Corporation of India was directed by the Hon'ble High Court to appoint as sweepers against regular vacancies as on the date of their services terminated on 16-5-1994, they worked with Food Corporation of India on casual basis. That the Petitioners themselves have discontinued on their own accord. The allegation of the Petitioners that their services were transferred to contract labour without following Sec. 9A of the I.D. Act is not correct. The Petitioners are put to strict proof that they are the very same persons who allegedly worked 20 years ago in M.R.M., Sattenapalli. In any view of the matter the Petitioners are not entitled for relief as prayed by them.

5. The Petitioner, in L.C.I.D.No. 115/2002 (Old ID 61/97) Md. Habibullah examined himself as WW1 and deposed that he joined as a boiler assistant in M.R.M. at Sattenapalli and worked from 1977 to 1981. Subsequent to 1981 he worked under a contractor as a boiler assistant till 1987. The management did not issue any notice while transferring the services to the contractor by the management. The contractor Sri P.Ramachandra Rao issued Ex. W1 service certificate which reads that the Petitioner worked as casual labour from 1-11-81 to 30-10-83 in Food Corporation of India. Ex. W2 is the certificate which was issued by contractor Sri S. Subba Rao which shows that he worked as casual labour from 27-12-85 to 27-12-87 in the Food Corporation of India. His daily wages were Rs. 5.45 ps. Subsequently they were enhanced to Rs. 6.90 ps. He worked under Sri A. Janardhan, Incharge of the boiler. He was paid difference of wages and bonus along with others. He prays that he may be regularized with back wages etc. In the cross examination he deposed that he studied upto 5th class. Although he was born at Sattenapalli there is no record to show that. He joined in 1977 at M.R.M. at the age of 22 years. He was not issued any appointment order. He did the duties of putting the Husk into the Boiler and removing ash from the boiler and releasing the steam from the boiler. One Sri Ramachandra Rao and Subba Rao are the contractors in the year 1977. It is not true that he never

worked with the department but only worked with the contractor. It is not true that he worked under Maistry but not in the Respondent Corporation. It is not true to suggest that Maistry will be engaging the workers depending on the work load. He denied that it is not true to say that he never worked continuously 240 days during 1-9-77 to 7-11-81 and left the work voluntarily. He does not know whether the M.R.M. was closed down in the year 1994 and the factory was dismantled and machinery was sold away. It is true that ID 15/78 was filed in the Industrial Tribunal, Hyderabad for enhancement of wages. Tribunal enhanced the wages for time rated workers. It is not true to suggest that he was paid the same.

6. The Petitioner, in L.C.I.D. No. 116/2002 (Old ID 62/97) T. Rama Krishna Murthy examined himself as WW1 and deposed that he joined as an unskilled casual labourer in M.R.M. at Sattenapalli and worked from 1977 to 1981. Subsequent to 1981 he worked under a contractor as a boiler assistant till 1987. The management did not issue any notice while transferring the services to the contractor by the management. The Unit Manager issued Ex.W1 service certificate which reads that the Petitioner was working as casual labour from 1-11-77 to 5-5-78 in Food Corporation of India. Ex.W2 service certificate was issued by contractor Sri P. Ramachandra Rao that he worked as casual labour from 1-11-81 to 30-10-83 in the Food Corporation of India. Ex.W3 was issued by contractor Sri S. Subba Rao that he worked as casual labour from 27-12-85 to 27-12-87 in the Food Corporation of India. His daily wages was Rs. 5.45 ps. Subsequently they were enhanced to Rs. 6.90 ps. He was paid difference of wages and bonus along with others. The Petitioner filed WP in the Hon'ble High Court of Andhra Pradesh in WP 17306/89, in which the Hon'ble High Court of A.P. passed an interim order directing the management to consider the regularization which was rejected by the management vide Ex.W4 proceedings dated 5-4-90. The names of the other workers who worked along with T. Ramakrishna Murthy and who also filed Writ Petition along with him were mentioned in Ex.W4. He worked under Sri N. Guravaiah, Supervisor and Venkateswaran. Ex.W5 is the Xerox copy of the order in the Writ Petition 17306/89. Ex.W6 is his representation for Ex.W5. Ex.W7 was issued by the management in response to Ex.W6. He prays that he may be regularized with back wages etc. In the cross examination he deposed that he was born at Bapatla and he is resident of Sattenapalli but there is no record to show that. He joined in 1977 at M.R.M. at the age of 28 years. He was not issued any appointment order. Sri Ramachandra Rao and Subba Rao are the contractors under whom he worked. It is not true that he never worked with the department but only worked with the contractor. It is not true that he worked under Maistry but not in the Respondent Corporation. He is not aware about the filing of ID 15/78 in the Industrial Tribunal, Hyderabad for enhancement of wages. He was paid arrears of wages and bonus by the management.

7. The Petitioner, in L.C.I.D. No. 117/2002 (Old ID 63/97) Ch. Gladly examined himself as WW1 and deposed that he joined as a drier in M.R.M. at Sattenapalli and worked from 1977 to 1987. Subsequent to 1981, he worked under a contractor as a boiler assistant till 1987. The management did not issue any notice while transferring the services to the contractor by the management. The contractor issued Ex.W1 and Ex.W2 are the service certificates which were issued by the contractors Sri P. Ramachandra Rao and Sri S. Subba Rao respectively. His daily wages was Rs. 5.45 ps. Subsequently they were enhanced to Rs. 6.90 ps. He was paid difference of wages and bonus along with others. Along with him Dayamma, Yogamma and Rehamat Kathur, management regularized their services but terminated the Petitioner. His representation for reinstatement is Ex.W3. He worked under Sri N. Guravaiah, supervisor. He prays that he may be regularized with back wages etc. In the cross examination he deposed that he was born in 1963 and he have not filed any document in proof of that. He studied upto 8th class. He joined in 1977 at M.R.M. at the age of 15 years. He was not issued any appointment order. It is not true that he never worked with the department but only worked with the contractor. He is not aware about the filing of ID 15/78 in the Industrial Tribunal, Hyderabad for enhancement of wages. He was paid arrears of wages and bonus by the management.

8. The Petitioner, in L.C.I.D. No. 118/2002 (Old ID 64/97) M. Venkateswarlu examined himself as WW1 and deposed that he joined as a casual labourer in M.R.M. at Sattenapalli and worked from 1977 to 1981. Subsequent to 1981 he worked under a contractor. The management did not issue any notice while transferring the services to the contractor by the management. The Unit Manager Sri Unni Nair issued Ex.W1 service certificate which reads that the Petitioner had worked as casual labour for 16 months from 1979 to 1981. Ex.W2 service certificate was issued by contractor Sri P. Ramachandra Rao that he worked from 1-11-81 to 30-10-83 in Food Corporation of India. Ex.W3 was issued by contractor Sri S. Subba Rao that he worked as casual labour from 27-12-85 to 27-12-87 in the Food Corporation of India. His daily wages was Rs. 5.45 ps. Subsequently they were enhanced to Rs. 6.90 ps. He was paid difference of wages and bonus along with others. The Petitioner filed WP in the Hon'ble High Court of Andhra Pradesh in WP 17306/89, in which the Hon'ble High Court of A.P. passed an interim order directing the management to consider the regularization. Ex.W4 is the representation of the Petitioner for regularization, which was rejected by the management, vide Ex.W5 proceedings dated 5-4-90. He worked under the supervisors S/Sri N. Guravaiah, Janardhanarao and Srinivasan. In the cross examination he deposed that he was born in 1962 and he has no documentary proof to show that. He joined at M.R.M. at the age of 12 years. It is not true that he never worked with the department but only worked with the contractor.

9. The Petitioner, in L.C.I.D. No. 119/2002 (Old ID 65/97) P. Venkateswarlu examined himself as WW1 and deposed that he joined as a casual labourer in M.R.M. at Sattenapalli and worked from 1977 to 1981. Subsequent to 1981 he worked under a contractor as a boiler assistant till 1987. The management did not issue any notice while transferring the services to the contractor by the management. Ex.W1 service certificate was issued by contractor Sri P.Ramachandra Rao that he worked as casual labour from 1-11-81 to 30-10-83 in the Food Corporation of India. Ex.W2 service certificate was issued by contractor Sri S. Subba Rao that he worked as casual labour from 27-12-85 to 27-12-87 in the Food Corporation of India. His daily wages was Rs. 5.45 ps. Subsequently they were enhanced to Rs. 6.90 ps. He was paid difference of wages and bonus along with others. The Petitioner filed WP in the Hon'ble High Court of Andhra Pradesh in WP 17306/89, in which the Hon'ble High Court of A.P. passed an interim order directing the management to consider the regularization which was rejected by the management. He worked under Sri Rajabushanam, Supervisor. He prays that he may be regularized with back wages etc. In the cross examination he deposed that he was born on 2-7-1961 and he is resident of Sattenapalli. He studied degree. He joined in 1977 at M.R.M. at the age of 17 years. He was not issued any appointment order. It is not true that he never worked with the department but only worked with the contractor. He is not aware about the filing of ID 15/78 in the Industrial Tribunal, Hyderabad for enhancement of wages. He was paid arrears of wages and bonus by the management. It is not true to suggest that he has not worked continuously worked for 240 days at any time.

10. The Petitioner, in L.C.I.D. No. 120/2002 (Old ID 66/97) T. Sambaiah examined himself as WW1 and deposed that he joined as a casual labourer in M.R.M. at Sattenapalli and worked from 1977 to 1981. Subsequent to 1981 he worked under a contractor. The management did not issue any notice while transferring the services to the contractor by the management. The Unit Officer Sri Unni Nair issued Ex.W1 service certificate which reads that the Petitioner was working as casual labour from 1976 to 1981 in Food Corporation of India. Ex.W2 service certificate dated 9-1-88 was issued by contractor Sri P.Ramachandra Rao that he worked as casual labour in the Food Corporation of India. Ex.W3 was issued by contractor Sri S. Subba Rao that he worked as casual labour from 27-12-85 to 27-12-87 in the Food Corporation of India. Ex.W4 is six P.F. Statements of Accounts. He was paid difference of wages and bonus along with others. The Petitioner filed WP in the Hon'ble High Court of Andhra Pradesh in WP 17306/89, in which the Hon'ble High Court of A.P. passed an interim order directing the management to consider the regularization which was rejected by the management vide Ex.W5 proceedings dated 5-4-90. He worked under Sri Koteswararao, supervisor. He prays that he may be regularized with back wages etc. In the cross examination

he deposed that he is resident of Sattenapalli but there is no record to show that. He joined in 1976 at M.R.M. at the age of 12 years. It is not true to suggest that he has not worked for 240 days continuously and he is no way concerned with the Respondent corporation. It is not true to suggest that as he has no requisite qualification, his services were not regularized.

11. The Petitioner, in L.C.I.D. No. 121/2002 (Old ID 67/97) Somavarapu Mallikharjuna Rao examined himself as WW1 and deposed that he joined as a worker removing the husk in M.R.M. at Sattenapalli and worked from 1977 to 1981. Subsequent to 1981 he worked under a contractor as a boiler assistant till 1987. The management did not issue any notice while transferring the services to the contractor by the management. Ex.W1 service certificate was issued by contractor Sri P. Ramachandra Rao that he worked as casual labour from 1-11-81 to 30-10-83 in the Food Corporation of India. Ex.W2 was issued by contractor Sri S. Subba Rao that he worked as casual labour from 27-12-85 to 27-12-87 in the Food Corporation of India. His daily wages was Rs. 5.45 ps. Subsequently they were enhanced to Rs. 6.90 ps. He was paid difference of wages and bonus along with others. His co-workers viz., Yogamma, Dayamma and others were regularized. He gave a representation to the management for regularization which was rejected by the management vide Ex.W3 proceedings dated 5-4-90. He worked under Sri Sudarshanachari, the production supervisor. He prays that he may be regularized with back wages etc. In the cross examination he deposed that he has not filed any document to show his date of birth. He studied upto V class. He joined in 1977 at M.R.M. at the age of 18 years. He was not issued any appointment order. It is not true that he never worked with the department but only worked with the contractor. It is not true to suggest that he has not worked continuously for 240 days and voluntarily left service. It is not true to suggest that as he has no requisite qualification, his services were not regularized.

12. The Petitioner, in L.C.I.D. No. 122/2002 (Old ID 68/97) S. Brahma Reddy examined himself as WW1 and deposed that he joined as a worker doing the work of watering the plants in the premises of the Mill and also used to stitch the gunnies in M.R.M. at Sattenapalli and worked from 1977 to 1981. Subsequent to 1981 he worked under a contractor. The management did not issue any notice while transferring the services to the contractor by the management. Ex.W1 service certificate was issued by contractor Sri P.Ramachandra Rao that he worked as casual labour from 1-11-81 to 30-10-83 in the Food Corporation of India. Ex.W2 was issued by contractor Sri S. Subba Rao that he worked as casual labour from 27-12-85 to 27-12-87 in the Food Corporation of India. His daily wages was Rs.5.45 ps. Subsequently they were enhanced to Rs.6.90 ps. He was paid difference of wages and bonus along with others. He gave a representation to the

management for payment of difference of wages and bonus which is Ex.W3. He was paid vide Ex.W4. He gave a representation to the management for regularization which was rejected by the management vide Ex.W5 proceedings dated 5-4-90. His co-workers viz., Yogamma, Dayamma and Rahmat Khan were regularized. He prays that he may be regularized with back wages etc. In the cross examination he deposed that he has not filed any document to show his date of birth. He is a native of Sattenapalli. He was aged about 50 years. He joined in 1975 at M.R.M. at the age of 25 years. He was not issued any appointment order. He had not filed any ID in Industrial Tribunal. But he was paid difference of wages. It is not true that he never worked with the department but only worked with the contractor. It is not true to suggest that he has not worked continuously for 240 days. It is not true to suggest that as he has no requisite qualification, his services were not regularized.

13. The Petitioner, in L.C.I.D. No. 123/2002 (Old ID 69/97) Sd. Masthan examined himself as WW1 and deposed that he joined as a wireman in the Boiler in M.R.M. at Sattenapalli and worked from 1977 to 1981. Subsequent to 1981 he worked under a contractor. The management did not issue any notice while transferring the services to the contractor by the management. Ex.W1 service certificate was issued by contractor Sri P.Ramachandra Rao that he worked as casual labour from 1-11-81 to 30-10-83 in the Food Corporation of India. Ex.W2 was issued by contractor Sri S. Subba Rao that he worked as casual labour from 27-12-85 to 27-12-87 in the Food Corporation of India. His daily wages was Rs.5.45 ps. Subsequently they were enhanced to Rs.6.90 ps. He was paid difference of wages and bonus along with others. He gave a representation to the management for regularization which was rejected by the management vide Ex.W3 proceedings dated 5-4-90. He prays that he may be regularized with back wages etc. In the cross examination he deposed that he has not filed any document to show his date of birth. He was aged about 35 years. He joined in 1975 at M.R.M. at the age of 12/13 years. He was not issued any appointment order. He had not filed any ID in Industrial Tribunal. But he was paid difference of wages. It is not true that he never worked with the department but only worked with the contractor. It is not true to suggest that as he has no requisite qualification, his services were not regularized.

14. The Petitioner, in L.C.I.D. No. 124/2002 (Old ID 70/97) N. Nageswara Rao examined himself as WW1 and deposed that he joined as a Boiler Attender in the Boiler in M.R.M. at Sattenapalli and worked from 1977 to 1981. Subsequent to 1981 he worked under a contractor. The management did not issue any notice while transferring the services to the contractor by the management. The management did not issue any service certificate to him. His daily wages was Rs. 5.45 ps. Subsequently they were enhanced to Rs. 6.90 ps. He was paid difference of wages and bonus along with others. He gave a representation to

the management for regularization which was rejected by the management. He worked under Sri A. Janardhan, Incharge of the Boiler. His co-workers viz., Dayamma, Rahmat Khan and others were regularized. He prays that he may be regularized with back wages etc. In the cross examination he deposed that he has not filed any document to show his date of birth. He was aged about 35 years. He joined at M.R.M. at the age of 12/13 years. He was not issued any appointment order. But he was paid difference of wages. It is not true that he never worked with the department but only worked with the contractor. It is not true to suggest that as he has no requisite qualification, his services were not regularized.

15. The Petitioner, in L.C.I.D. No. 125/2002 (Old ID 71/97) B. Teresamma examined herself as WW1 and deposed that she joined as sweeper in M.R.M. at Sattenapalli and worked from 1975 to 1981. Subsequent to 1981 she worked under a contractor till 1994. Ex.W1 service certificate was issued by contractor Sri P.Ramachandra Rao that she worked as casual labour from 1-11-81 to 30-10-83 in the Food Corporation of India. Ex.W2 was issued by the president, The Food Corporation of India and Modern Rice Mill Mutta Workers Labour Contract Co-operative Society Ltd., Sattenapalli that she worked as casual labour from 28-12-87 to 26-12-94 in the Food Corporation of India. Her daily wages was Rs.5.45 ps. Subsequently they were enhanced to Rs.6.90 ps. She was paid difference of wages and bonus along with others. She gave a representation to the management for payment of difference of wages and bonus which is Ex.W3. She was paid vide Ex.W4. She had subscribed to P.F., Ex.W5 are the 8 slips consisting P.F. statements. She gave a representation to the management for regularization vide Ex.W6 which was rejected by the management vide Ex.W7 proceedings dated 28-9-95. Her co-workers viz., Yogamma, Dayamma and Rahmat Khan were regularized. She worked under Assistant Manager Sri N. Koteswara Rao. She prays that she may be regularized with back wages etc. In the cross examination she deposed that she has been working in F.C.I. since 1975. The service certificate was issued by the Government. She was not issued any appointment order. It is not true to suggest that the other workmen whose services were regularized were having requisite qualification for regularization.

16. The Petitioner, in L.C.I.D. No. 126/2002 (Old ID 72/97) G. Suseela examined herself as WW1 and deposed that she joined as sweeper in M.R.M. at Sattenapalli and worked from 1977 to 1981. Subsequent to 1981 she worked under a contractor. The management did not issue any service certificate. Ex.W1 service certificate was issued by contractor Sri P.Ramachandra Rao that she worked as casual labour from 1-11-81 to 30-10-83 in the Food Corporation of India. Ex.W2 was issued by the Sri S. Subba Rao, Contractor that she worked as casual labour from 27-12-85 to 27-12-87 in the Food Corporation of India. Her daily wages was Rs.5.45 ps. Subsequently they were enhanced to Rs.6.90 ps.

She had subscribed to P.F., Ex. W3 are the 4 slips consisting P.F. statements. She was paid difference of wages and bonus along with others. She gave a representation to the management for payment of difference of wages and bonus which is Ex. W4 and she was paid vide Ex. W5. She gave a representation to the management for regularization which was rejected by the management vide Ex. W6 proceedings dated 28-9-95. Her co-workers viz., Yogamma, Dayamma and Rahmat Khan were regularized. She worked under Assistant Manager Sri Koteswara Rao. She prays that she may be regularized with back wages etc. In the cross examination she deposed that she worked in F.C.I. since 1976. She was not issued any appointment order. She is not a party in ID 15/78. She was paid difference of wages. It is not true to suggest that as she has not worked with the Respondent and as she has no requisite qualification for regularization she was not regularized. It is not true to suggest that she never worked for 240 days continuously.

17. The Petitioner, in L.C.I.D.No. 127/2002 (Old ID 73/97) A. Suribabu examined himself as WW1 and deposed that he joined as a casual labourer in M.R.M. at Sattenapalli and worked from 1977 to 1981. Subsequently his services were transferred to contractors. The contractor Sri P.Ramachandra Rao issued Ex. W1 service certificate which reads that the Petitioner was working as casual labour from 1-11-81 to 30-10-83 in Food Corporation of India. Ex. W2 is the certificate which was issued by contractor Sri S. Subba Rao which shows that he worked as casual labour from 27-12-85 to 27-12-87 in the Food Corporation of India. His daily wages was Rs.5.45 ps. Subsequently they were enhanced to Rs.6.90 ps. He was paid difference of wages and bonus along with others. He gave a representation to the management for regularization which was rejected by the management vide Ex. W3 proceedings dated 28-9-95. He worked under Sri Janardhanarao, supervisor. He prays that he may be regularized with back wages etc. In the cross examination he deposed that he has not filed any document to show his date of birth. He was aged about 41 years. He joined at M.R.M. at the age of 16 years. He was not issued any appointment order. He filed writ petition in the Hon'ble High Court for regularization of services. It is not true to suggest that as he has no requisite qualification, his services were not regularized.

18. The Petitioner, in L.C.I.D.No. 128/2002 (Old ID 121/97) Dokina Venkata Rao examined himself as WW1 and deposed that he joined as a casual labourer in M.R.M. at Sattenapalli and worked from 1977 to 1981. Subsequently his services were transferred to contractors. The contractor Sri P.Ramachandra Rao issued Ex. W1 service certificate which reads that the Petitioner was working as casual labour from 1-11-81 to 30-10-83 in Food Corporation of India. Ex. W2 is the certificate which was issued by contractor Sri S. Subba Rao which shows that he worked as casual labour from 27-12-85 to 27-12-87 in the Food Corporation of India. His daily wages was Rs.5.45 ps.

Subsequently they were enhanced to Rs.6.90 ps. He was paid difference of wages and bonus along with others. He gave a representation to the management for regularization which was rejected by the management vide Ex. W3 proceedings dated 28-9-95. He worked under S/Sri Guravaiah, Narasimham and Sudharsanachari. His co-workers Dayamma, Yogamma and Rahamat Khan were regularized. He prays that he may be regularized with back wages etc. In the cross examination he deposed that He has been working since 1975 in Food Corporation of India. He attended the work of stitching of gunny bags and collecting the paddy fallen on the grounds and filling them into the bags. He was not issued any appointment order. It is not true to suggest that as he has not worked 240 days continuously, his services were not regularized.

19. The management examined Sri V. Bhavani Prasad who deposed that he is working as Assistant Manager, Mechanical & Computers in the district office. Food Corporation of India. He worked as Assistant Manager, Mechanical and Computers, Sattenapalli M.R.M. from 1977 to 1980. Normally they employ contractors, who engage labourers. Food Corporation of India never appointed any worker or petitioners as claimed by him. They have not taken any unskilled labour. He has seen the names of the Petitioners in the records. He deposed that he is not producing any record. That the M.R.M. Sattenapalli is no longer existed and it was closed in the year 1994. Before the commencing the mill Respondent appointed a contractor by name Sri D. V. Subba Rao. During the year 1977 the workers filed a case under Payment of Wages Act and the said case was dismissed holding that the Petitioners are not employees of the Respondents. In the cross examination, he deposed that for miscellaneous work they engaged casual labourers through contractors. Without verifying the record he cannot say whether the Petitioners worked for 240 days or not. The difference of Rs. 1.50 ps was paid as per the directions of the Hon'ble High Court. Since the case is of 23 years old he cannot produce the record to the Court that the regular casual labourers are appointed in the sanctioned posts. Ex.M1 to Ex.M10 are marked with consent and arguments heard.

20. It is argued by the Counsel for the Petitioners workmen that initially the Petitioners approached the Hon'ble High Court vide WP No. 17306/1989 challenging the action of the Respondent herein for not appointing and regularizing their services in the posts of cleaner/helper or any other suitable class IV post. The said WP was allowed in part but in WA No.276/1995 dated 30-10-1996 writ appeal was allowed directing the workmen to approach the Labour Court. Hence, these cases. He submits that the Petitioners workmen worked directly as skilled labour in the Food Corporation of India, Modern Rice Mill, Sattenapalli w.e.f. 1-9-1977 to 7-11-1981. In November, 1981 all the workmen (casual labour) were brought under the control of contractors without any notice or intimation to

the workmen. Under the contractors the workmen have worked for more than 5 years and above. The workmen were paid difference of wages from 1-9-77 to August, 1981 in two installments vide cheque No. 621014, SBI, Sattenapalli for Rs. 38,012.50 ps. And another cheque bearing No. 621056 dated 25-9-81 for Rs. 5,045.50 ps. Bonus paid for 1980-81 Rs. 3,688.35 ps vide Acquaintance Register page No. 228. That the management has issued a circular dated 6-5-87 for regularization of those who have completed three months period as on 5-6-86. In the instant case all the workmen have completed three years of service directly under the Food Corporation of India and also under the contractors as on the date of issuance of the above circular it is reliably learnt that all files relating to the workmen of Food Corporation of India, Sattenapalli were transmitted. Subsequently another circular has been issued on 24-8-92 calling for the particulars from casual/daily rated workmen who are left over. But for the reasons best known to the management the particulars of workmen have not been sent. It is pertinent to note that during 1989-90 the management of Food Corporation of India has regularized number of workmen who were engaged during the period 1972 to 1988 who were not sponsored by the employment exchange. That this Petitioners have completed more than 10 days of continuous service in a calendar year under various capacities under the Food Corporation of India, Sattenapalli. There is direct relationship of 'Master' and 'Servant' between the Petitioner and the Food Corporation of India. Under the Food Corporation of India authorities or contractors they have completed five years. That during October, 1997, I.A. 123/1997 in I.D. 4/1997 was filed seeking direction to the Food Corporation of India to produce all records said to have transmitted to the 2nd Respondent vide letter dated 1-1-1990 from the Unit Manager, Food Corporation of India, Sattenapalli. The management on 9-3-98 filed a counter stating that the records are not traceable in the office of the District Manager, Food Corporation of India, Guntur. It is pertinent to note that the management has already filed counters in all these IDs. Based upon the records and also stated that the representations of workmen filed in pursuance of Learned Single Judge orders have been disposed off by issuing proceedings wherein it is clearly mentioned that, on verification of records the workmen have not worked for five years either with the Corporation or with the contractors. The management's counter in page No. 7, para 8, it is stated that, "the said record did not reveal that Petitioner worked for more than 5 years". It is not known from which the management verified the particulars of Petitioners. The management intentionally suppressed the above records and failed to produce before this Court inspite of the petition being called for the records. In similar circumstances the Hon'ble Supreme Court in a matter reported in 1985 (4) SCC page 201—H.D. Singh Vs. Reserve Bank of India and others, wherein it is held that, "employers failure to produce the attendance registers to contravene workmen's claim—

on facts held, workmen claims acceptable drawing inference that the workman had worked for more than 240 days".

21. At the time of argument in the I.A. 123/97 on behalf of the workmen it is submitted that, "the above Judgement may be pressed into service accordingly the Hon'ble Court recorded the same and noted that the I.A. will be decided along with the I.Ds." Therefore it is respectfully submitted that the Judgement of the Hon'ble Supreme Court is squarely applicable to the facts of these cases. The management took a stand that as per the records persons having the names of the Petitioners worked with breaks in Modern Rice Mill, Sattenapalli for technical/depot/miscellaneous works during the period 1980-81. But the management failed to produce any record. The Petitioners are also among such time rated workmen.

22. It is also admitted that the difference in wages had been paid to him. It may also be seen that in view of the orders in WP No.17306/1989 as record was very much available on 1-1-90 but not produced. That Smt. G.Dayamma and others who worked along with the Petitioners was appointed. The workmen have examined as WW1. In L.C.I.D. No. 115/2002 (Old ID No.61/97) it is deposed by the workman stating that he worked as boiler attender, from 1977 to 1981, and thereafter worked under contractor till 1987.

(a) In respect of L.C.I.D. No. 116/2002 (Old No.ID 62/97) the workman stated he worked as unskilled casual labour from 1977 to 1987 in MRM, Sattenapalli. Thereafter worked under contractor, the averments are similar to L.C.I.D. No. 115/2002.

(b) In respect of L.C.I.D.No. 117/2002 (Old ID No.63/97), workman deposed that he worked as drier in MRM, Sattenapalli from 1977 to 1981.

(c) Similarly the workmen in L.C.I.D.Nos. 118/2002 (Old ID No.64/97), 119/2002 (Old ID No.65/97), 120/2002 (Old ID No.66/97), 121/2002 (Old ID No.67/97), 122/2002 (Old ID No.68/97), 123/2002 (Old ID No.69/97), 124/2002 (Old ID No.70/97), 126/2002 (Old ID No.72/97), 127/2002 (Old ID No.73/97) and 128/2002 (Old ID No.121/97), workmen deposed that they worked as casual labourers, sweepers, boiler attenders etc. in MRM, Sattenapalli from 1977 to 1981, subsequently worked under contractor till December, 1987. In respect of L.C.I.D.No. 125/2002, workman deposed that he worked as sweeper in MRM, Sattenapalli from 1975 on casual basis to 1981, subsequently worked under contractor till 1994.

23. He further argued that the management witness has referred to certain cases which have no relevance to the facts of other cases and again in the further cross when he was called for he admitted that the MRM undertook technical operations like fumigation, aerations to stocks etc. The above said operations will be taken up through out the year. There are permanent employees and other

casual labourers supplied by the contractors who attend the work in different sections like engineering and technical etc. That is it admitted fact that they worked from 1978 to November, 1981 and subsequently without proper notice their service conditions were changed. Further the workmen received difference of wages as submitted earlier and they have not applied their circular. Further management has admitted payment of difference of wages during 1981. This ground alone shows that there is 'Master' and 'Servant' relationship. That they have admitted that some of the workmen have worked for more than 240 days and the Hon'ble Supreme Court directed that such contract labourers who have worked for 240 days are entitled for absorption. Further from the evidence of MW1 it is clear that he is not aware of the fact that whether the contractor had obtained license under the provisions of Contract Labour (Regulation & Abolition) Act. Further stated that the Food Corporation of India had not obtained license under the above Act for appointing contractors. In the absence of license under Contract Labour Act the contract labour are deemed to be workmen of the Principal employer. Assuming without admitting that the Petitioners are contract labour in the absence of license by the contractor, by the Food Corporation of India management. The workmen were engaged on permanent and perennial nature of work as boiler attenders, sweeping, cleaning etc., which are prohibited employment as per the notifications issued by the Government in this regard. Hence, relief may be given to them as prayed for.

24. He relied on 1985 (4) Supreme Court Cases page 201 in H.D. Singh Vs. Reserve Bank of India and others wherein it was held that, "Employers failure to produce attendance register to controvert workman's claim - On facts held, workman's claim acceptable". He also relied on 1999 (3) Supreme Court Cases page 601, in Secretary, Haryana State Electricity Board Vs. Suresh and others, wherein their Lordships held that the Safai Karmacharis were engaged and terminated after they worked for more than 240 days. On facts it is found that the termination letter only a name and there was no genuine contract and it was held that they are the employees of the Haryana State Electricity Board. He also relied on the Judgement of our Hon'ble High Court 1997 (5) ALD page 463 wherein it was held that, "where the employer of the contract labour were doing perennial work but the State government abolished the same. Therefore, the Respondent company was directed to employ them as it is true to say that regular employees and the pay scales of last grade of the staff pattern.

25. It is argued by the Learned Counsel for the Respondent that the Respondent Corporation has set up 25 Modern Rice Mills all over India in 1970 with object of introducing Rice Milling Technology in the country. The Modern Rice Mill, Sattenapalli is one among the said 25 Modern Rice Mills. The Food Corporation of India Headquarters sanctioned permanent staff for the operation of

Modern Rice Mill at Sattenapalli for the milling operations at the Modern Rice Mill at Sattenapalli. The Unit Manager engaged certain casual workers for the technical and miscellaneous work depending upon the exigencies of work. Normally the Unit Manager employed the contractor and the contractor will engage the workers, depending on the work at Modern Rice Mill at Sattenapalli. The Food Corporation of India never appointed any Petitioners as claimed by them. One Sri D. V. Subba Rao was appointed as contractor in 1974. Whenever any worker is appointed directly they will give appointment order like Ex. M2. During the year 1977 the workers working through a contractor file a case before the authority under Payment of Wages Act, P.W. case No. 28/77. Ex. M3 is the Xerox copy of the order passed by the authority In that order it is categorically held that the applicants are not persons employed by the opposite party and he mentioned about C.M.A., writ etc have been filed that may not be germane to this issue as these Petitioners were appointed in 1978.

26. After Mr. Subba Rao, the contract was taken up by one Mutta Maistry who stepped into the shoes of the contractor. The payment was being made to the Mutta Maistry, who in turn was paying to workers. The workmen raised ID 15/78 before Industrial Tribunal, Hyderabad for enhancing of wages and the same was enhanced for time rated workers. Ex. M4 is the said order in ID 15/78. The said award is not applicable to the Petitioners. Time rated workers wages were enhanced from Rs. 5.45 ps to Rs. 6.90 ps. These workers have approached the Hon'ble High Court vide WP No. 17306/89. The High Court passed a common order directing to consider the cases of these persons who have completed five years whoever worked under the Food Corporation of India or under the contractors. Ex. M7 is the common order passed. In pursuance of the Judgement representations were submitted by the workmen. The Respondent considered and found that none of them have fulfilled the conditions laid down in the Judgement passed in the above said writ petition. Accordingly an endorsement was issued to the workmen. Ex. M8 is the Judgement passed in Writ Appeal setting aside the order of the Learned Single Judge and directed the Petitioners to approach the Labour Court. The Modern Rice Mill was dismantled. The Petitioners have not given any descriptive particulars like age and their educational qualification. They have not produced any scrap of paper to prove that they have been appointed by the Food Corporation of India. Simply because they have filed writ petitions in the Hon'ble High Court these Petitioners want to take advantage of it. The Respondent Corporation never appointed any minor boy at any time of their work. They missed proof that they are the same persons who filed writ petitions in the Hon'ble High Court and the same persons appointed by the Respondent Corporation. If really any one of them was appointed by the Respondent Corporation they should have got their name from the employment exchange, interviewed them and given appointment orders as in the

case of G. Sambaiah similar to the Ex. M2. When a contractor stopped work, another contractor was appointed in his place there was a gap, and during that period wages were not paid to the workers because of the absence of the contractor. The workers represented the matter to the Respondent who out of humanitarian grounds paid the wages through cheque to the workers and later recovered from the contractor. Instead of showing gratitude to the Respondent Corporation, they want to take advantage as if they were working with Food Corporation of India and Food Corporation of India paid their wages through cheques. This act of kindness cannot be taken advantage and say they are working directly under Food Corporation of India. There no relationship of employer and employee. After two decades they filed these cases asking the Respondents to produce the record. The workmen evidence seems to be that it is enough if they say that they worked in Food Corporation of India without producing any paper. The Industrial Tribunal passed an award in 20 ID cases in respect of workers in WP No. 16020/89 holding that they are no entitled for any relief as the principle of *Res judicata* operates in the matter. The allegation that they are working under the Food Corporation of India and later transferred to the hold of contractor without giving any notice is false. The said circular is not applicable to them. It is applicable to only daily rated employees working against the vacant posts meant for the staff under the Food Corporation of India. Some of the Petitioners produced some Xerox copies of certificates alleging that they were given by the Food Corporation of India. It is false as they did not produce the originals. At best that can be treated as character and conduct certificates and not as service certificates as held by the Hon'ble Calcutta High Court. They have not filed a scrap of paper nor examined any witness except their word which they want to be taken as Gospel Truth. If that be the case any one can come and say that he worked under Food Corporation of India. The relief if at all is barred by limitation.

27. In 1997 L.L.R. 349, it was held that, "even for writ petition Supreme Court has observed that three years is a reasonable period within which the aggrieved party must approach to challenge termination as there is the period for filing a civil suit according to us, the workman cannot be allowed to approach the Labour Court after more than three years of the termination of service. Under the circumstances, we are of the view that the Respondent workmen was not entitled to any relief from the Labour Court on the ground of delay". In the year 1995, M.R.M., Sattenapalli was closed. In 1997 February, the M.R.M. machinery was dismantled and sold away. The workmen who were appointed by contractors now wants to regularize their services by the Respondent Corporation who has nothing to do with the workmen working under the contractor. In 1997 Supreme Court 1445 it is held that, "When project is closed no vested right is created in temporary employee. They have to go along with closure

of project directions by High Court to regularize them or continue them in other places would amount to creating of past and continuing them despite non-availability of works. Such directions are not proper". Hence the Petitioners are not entitled for any relief.

28. It may be seen that Ex. W1 (in some cases of the batch it is Ex. W2) certificate said to have been issued by Sri P. Ramachandra Rao, Handling and Transport contractor gave a certificate in 1988 that the Petitioners had worked as casual labourers in the Food Corporation of India from 1-11-81 to 30-10-83. Ex. W2 (in some cases of the batch it is Ex. W3) is another certificate issued by Sri S. Subba Rao contractor that the Petitioners herein had worked as casual labourers from 27-12-85 to 27-12-87 in the Food Corporation of India. Ex. M1 is the notice to Sri Subba Rao, H&T Contractor, Sattenapalli that he has been appointed as contractor for loading and unloading grains which is in 1974 and it may not be of much consequence. Similarly Ex. M2. is not of much consequence. Ex. M3 shows that some persons have approached authority under P.W. Act where it was held that no relationship of employer and employee existed. Ex. M4 is the award in industrial dispute No. 15/78, where the demand of the workmen of the Modern Rice Mill for revision of wages of piece rate workers is not justified. The demand of time rated workers is justified and enhanced it from Rs. 5.45 ps to Rs.6.90 ps. Ex. M5 is the C.M.A. which has also been dismissed. Ex. M7. is Judgement in WP No. 17306, 18193 and 18194 of 1989 of Hon'ble Single Judge. Ex. M8. is the Judgement of Division Bench, wherein their Lordships have gone in detail and in fact it is stated in the Judgement, " Sri B. Anjaneyulu, Learned Counsel appearing for the appellants submits that the Corporation will have no objection if the workmen raise an industrial dispute directly before the Labour Court instead of approaching the government to refer the same. In view of such circumstances we direct the Petitioner-workman to make their claim/representation before the Industrial Tribunal cum Labour Court... The Labour Court shall conduct enquiry in accordance with law after giving opportunity to both the parties keeping in mind all the principles laid down in the cases cited supra on the irrelevant issues and their posts existence or otherwise of relationship of 'Master' and 'Servant' between the Corporation and the workmen petitioners and pass award accordingly."

29. In case Labour Court comes to the conclusion that the workmen have established their case as existence of 'Master' and 'Servant' relationship between them and the Corporation then it shall also given a finding whether they are entitled for regularization of service with all consequential benefits. So the ground taken by the Learned Counsel for the Respondent is that this Court can go into the questions whether there is delay in approaching the Court does not stand to reason having agreed before the Hon'ble Division Bench of the Hon'ble High Court that

they have no objection if they approach the Labour Court directly not only that the Hon'ble Division Bench has directed the Court then (this is the successor Court) that it shall determine about the existence or otherwise of relationship of 'Master' and 'Servant' between Corporation and the workmen petitioners. It also directed, "It shall also give a finding whether they are entitled for regularization of their services with all consequential benefits". I am bound by the directions given to the Court then in existence as this is the successor Court. It has been held in *Steel Authority of India Ltd., v/s. Steel Authority of India Ltd., Contract Workers Union and others* to the fact that, "failure of the contractor to obtain a license by itself cannot result in creating any direct relationship of employer and employee between the Corporation and the contract labour. What is the evidence that they placed before me to show that there is relationship of employer and employee between the Food Corporation of India and the Petitioners in the evidence of WW1 in each case. Thus, Ex. W1/W2 is given by Sri Ramachandra Rao contractor that the Petitioners worked in Food Corporation of India, Sattenapalli as casual labourers and Ex. W2/W3 is a certificate given by Sri Subba Rao that the Petitioners worked as casual labourers between 27-12-85 to 27-12-87. The Petitioners state that they worked till 1987 and they admit in the cross examination that one Sri Ramachandra Rao was contractor in 1977 and Ex. W1 was issued by him. They also agreed that there was Sri Subba Rao who is a contractor and Ex. W2 was issued by him. At best it shows that they worked from 1-11-81 with the contractors although the contractors say that they have worked with the Food Corporation of India.

30. In three cases the service certificates initially were issued by FCI. In LCID 116/2002 where the Petitioner Sri T. Ramakrishna Murthy, Ex. W1 is marked which was issued by the Unit Manager, FCI, Sattenapalli, that Sri Ramakrishna Murthy worked from 1.11.77 till 5.5.78 as casual labour in M.R.M., para-boiling unit. Similarly, in LCID 118/2002 Sri M. Venkateswarlu examined himself as WW1 and Ex. W1 is the certificate issued by Unit Manager that the Petitioner worked from 1979 to 1981 for a period of 16 months and his conduct and character was satisfactory. Similarly in LCID 120/2002 Sri T. Sambaiah examined as WW1 and marked Ex. W1 which was issued by Unit Manager, FCI that the Petitioner worked as casual labour from 1976. Barring that all the certificates were issued by contractors. It may be noted that I have to write the judgment in view of the Division Bench Judgement of the Hon'ble High Court in Writ Appeal No.276, 277, 492 and 281 of 1995 wherein their Lordships have laid down as quoted supra and again despite repetition I am quoting here, "Labour Court shall conduct enquiry in accordance with law and after giving opportunity to both the parties keeping in mind the principles laid down in the cases cited supra on the relevant issue and then pass appropriate orders as to the existence or otherwise of relationship of 'Master' and 'Servant' between the corporation and workmen-petitioners and pass award accordingly. (ii) in case the Labour Courts comes to the

view that the workmen have established their case of existence of 'Master' and 'Servant' relationship between them and the Corporation, then, it shall also give a finding whether they are entitled for regularization of their services with all consequential benefits". So, I am bound to decide these two issues and the relief will follow accordingly. It may be noted that in all 11 cases they have not been able to prove the 'Master' and 'Servant' relationship between the Petitioners and the Respondent. No doubt most of them have worked till 1987 either with some contractor or others for the FCI barring the above three cases cited. Most strong case of establishing the 'Master' and 'Servant' relationship during 1977 to 1981 is in LCID 120/2002, Ex. W1 which says that the Petitioner Sri Sambaiah has worked for a five years as casual labour. The second one is LCID 118/2002 wherein the Petitioner has marked Ex. W1 which shows that the Petitioner has worked for 16 months as casual labour under the Respondent corporation. The last one is LCID 116/2002 wherein the Petitioner has marked EX. W1 which shows that the Petitioner worked from 1.11.77 till 5.5.78, that is of course only for a period of 6 months and few days. Now what is the position? So far as even these persons have been taken into consideration specially the one in LCID 120/2002, who worked continuously for five years as casual labour and suddenly shifted to a contractor according to him. Similarly, the other person in LCID 118/2002 has worked for 16 months from 1979 to 1981 vide Ex. W1. In LCID 116/2002 Sri T. Ramakrishna Murthy has worked only for 6 months and few days. So it may be seen that bearing the above three LCIDs mentioned, none of them have been able to satisfy the criteria laid down of establishing the 'Master' and 'Servant' relationship. No doubt they started agitating by filing writ petitions as far as back by filing writ petitions in 1989, they have been working under some contractors or other in 1987. Actually in 1989. They have approached the Court for regularization and orders of Single Judge in writ petition was set aside. If their services were dispensed with in 1981 and they were handed over into the folds of the contractors they kept quite for six years and approached the Court by filing writ petitions in 1989 to regularize their services. No doubt they have been working for the FCI whether directly as special case of Petitioners in LCID 120/2002 who worked continuously for five years or LCID 118/2002 where he has worked continuously for 16 months or in LCID 116/2002 where he worked continuously for 6 months. So it cannot be said that they are totally strangers. But the question remains whether there is 'Master' and 'Servant' relationship between the corporation and the workmen-Petitioners. It maybe seen that none of them except the above three have been able to show that there was 'Master' and 'Servant' relationship between them. Merely paying difference of wages in 1981 will not come to the rescue of the Petitioners. The Petitioner in LCID 116/2002 has been able to prove that he worked for 6 months, 4 days which also does not help him as it does not establish 'Master' and 'Servant' relationship between

him and the Corporation, he has not put in 240 days continuous service and he worked as casual labour. But, so far as Petitioner in LCID 118/2002 he has worked continuously for 16 months and in LCID 120/2002 where he has worked continuously for 5 years establishes 'Master' and 'Servant' relationship between these two Petitioners and the Respondent. But will it be advisable to give a relief after a period of 21 years to set the clock in reverse motion? Much water must have flowed during these 21 years. Where LCID Nos. 115, 117, 119, 121, 122, 123, 124, 125, 126, 127 and 128 of 2002 concerned as they have not established that there is 'Master' and 'Servant' relationship. Yet, they have established that they have worked atleast with various contractors for the FCI for sufficiently long period and as this is a governmental organization and supposed to be a model employer and it should not confine itself to legal technicalities and as they themselves say that they no longer engage casual labourers and if their contention is correct then why should they feel shy if an award is given that if any casual workers are appointed, the Petitioners should be given preference? What is the hitch I am unable to understand for which the litigation is never put an end by dragging these labourers from Court to Court. What is the loss that is caused to the Corporation. If really they are not engaging any casual labourers if an order is given that taking into consideration on humanitarian basis that atleast they have worked under contractors for several years under the hope that one day or other they would be absorbed by the Respondent Corporation. What is wrong if it is stated that they shall be given preference over others. I failed to understand the logic and the arguments put forth by the Respondent's Counsel. Litigation for litigation sake, dragging the labourers from Court to Court does not serve the purpose and it looks as if there is vengeance against these labourers because they dared to approach the Hon'ble High Court for regularization. So in the result, they are thrown out from the contractors' fold also. In the result, the award is passed as follows : "(1) the Petitioner Sri M. Venkateswarlu in LCID 118/2002 and Petitioner Sri T. Sambaiah in LCID 120/2002 shall be taken as casual workers as they have proved that they worked continuously for 16 months and 5 years respectively with the Corporation and then under the contractors, if and when any casual labourers are engaged by the Respondents." (2) The Petitioners in LCID Nos. 115/2002, 116/2002, 117/2002, 119/2002, 121/2002, 122/2002, 123/2002, 124/2002, 125/2002, 126/2002, 127/2002 and 128/2002 may be given preference over others in the matter of employment of casual labour even though on daily wages taking their seniority as of 1977 in Sattenapalli or in Guntur District. However, a word of caution that this shall apply only for engaging fresh casual labourers from today and there shall be no retrenchment in view of this award.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant

transcribed by her corrected and pronounced by me on this the 28th day of February, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioners as WW1 :	Witnesses examined for the Respondent as MW1 :
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|--------------------------------------|-----------------------|
| 1. Sri Md. Habibulla | Sri V. Bhavani Prasad |
| 2. Sri T. Ramakrishna Murthy, | |
| 3. Sri Ch. Gladly, | |
| 4. Sri Mamidala Venkateshwarlu, | |
| 5. Sri P. Venkateshwarlu, | |
| 6. Sri. T. Sambaiah, | |
| 7. Sri Somavarapu Mallikharjuna Rao, | |
| 8. Sri S. Brahma Reddy, | |
| 9. Sri Sd. Masthan, | |
| 10. Sri N. Nageswara Rao, | |
| 11. Smt. B. Teresamma, | |
| 12. Smt G. Suseela, | |
| 13. Sri A. Suri Babu, and | |
| 14. Sri Dokina Venkat Rao | |

DOCUMENTS MARKED FOR THE PETITIONERS

In L. C.I.D. Nos. 115/2002 and 119/2002 :

- Ex.W1: Service certificate issued by Sri P. Ramachandra Rao dt. 9-1-88:
- Ex.W2: Service certificate issued by Sri S. Subba Rao dt.13-1-88.

In L.C.I.D. No. 116/2002 :

- Ex.W1: Service certificate issued by Unit Manager.
- Ex.W2: Service certificate issued by Sri P. Ramachandra Rao dt. 9-1-88.
- Ex.W3: Service certificate issued by Sri S. Subba Rao dt. 13-1-88.
- Ex.W4: Proceedings NO. IR. 30/5/89 dt.5-4-90.
- Ex.W5: Copy of Judgement in WP Nos.17306, 18193, 18194/89 dt. 5-10-94.
- Ex.W6: Representation of WW1
- Ex.W7: Proceedings No. IR.32/I/90-Vol.II dt. 28-9-95.

In L. C.I.D. Nos. 117/2002, 121/2002 and 123/2002 :

- Ex.W1: Service certificate issued by Sri P. Ramachandra Rao dt. 9-1-88.
- Ex.W2: Service certificate issued by Sri S. Subba Rao dt. 13-1-88.

Ex.W3: Proceedings No. IR.32/1/90-Vol. II dt. 28-9-95.

In L.C.I.D. No. 118/2002 :

Ex.W1: Service certificate issued by Unit Manager Sri Unni Nair.

Ex.W2: Service certificate issued by Sri P. Ramachandra Rao dt. 9-1-88.

Ex.W3: Service certificate issued by Sri S. Subba Rao dt. 13-1-88.

Ex.W4: Copy of representation of WW1 dt. 15-12-94.

Ex.W5: Proceedings No. IR.32/1/90-Vol. II dt. 28-9-95.

In L.C.I.D. No. 120/2002 :

Ex.W1: Service certificate issued by Unit Manager Sri Unni Nair dt. 13-11-81.

Ex.W2: Service certificate issued by Sri P. Ramachandra Rao dt. 9-1-88.

Ex.W3: Service certificate issued by Sri S. Subba Rao dt. 13-1-88.

Ex.W4: Six Statements of Accounts of E.P.F. Scheme 1952, from 1981 to 1987.

Ex.W5: Proceedings No. IR.32/1/90-Vol. II dt. 28-9-95.

In L.C.I.D. No. 122/2002 :

Ex.W1: Service certificate issued by Sri P. Ramachandra Rao dt. 9-1-88.

Ex.W2: Service certificate issued by Sri S. Subba Rao dt. 13-1-88.

Ex.W3: Copy of representation of WW1 to the Dy. Commissioner of Labour.

Ex.W4: Copy of statement showing different rates of Minimum rates of wages to be paid to the employees by P. Ramachandra Rao, employer, MRM, Sattenapalli.

Ex.W5: Proceedings No. IR.32/1/90- Vol. II dt. 28-9-1995

In L.C.I.D. No. 124/2002 :

NIL

In L.C.I.D. No. 125/2002 :

Ex.W1: Service certificate issued by Sri P. Ramachandra Rao 9-1-1988.

Ex.W2: Service certificate issued by President, FCI and MRM Mutta Workers Labour Contract Co-operative Society Ltd., Sattenapalli dt. 26-12-1994.

Ex.W3: Copy of representation of WW1 to the Dy. Commissioner of Labour.

Ex.W4: Copy of statement showing different rates of Minimum rates of wages to be paid to the employees by P. Ramachandra Rao, employer, MRM, Sattenapalli.

Ex.W5: Statements of Accounts of E.P.F. Scheme 1952, from 1991 to 1996

Ex.W6: Copy of representation of WW1.

Ex.W7: Proceedings No. IR.32/1/90-Vol. II dt. 28-9-1995.

In L.C.I.D. No. 126/2002 :

Ex.W1: Service certificate issued by Sri P. Ramachandra Rao dt. 9-1-1988.

Ex.W2: Service certificate issued by Sri S. Subba Rao dt. 13-1-88

Ex.W3: Statements of Accounts of E.P.F. Scheme 1952, from 1981 to 1986.

Ex.W4: Copy of representation of WW1 to the Dy. Commissioner of Labour.

Ex.W5: Copy of statement showing different rates of Minimum rates of wages to be paid to the employees by P. Ramachandra Rao, employer, MRM, Sattenapalli.

Ex.W6: Proceedings No. IR.32/1/90-Vol. II dt. 28-9-1995.

In L.C.I.D. No. 127/2002 and 128/2002 :

Ex.W1: Service certificate issued by Sri P. Ramachandra Rao dt. 9-1-1988.

Ex.W2: Service certificate issued by Sri S. Subba Rao dt. 13-1-1988.

Ex.W3: Proceedings No. IR.32/1/90- Vol. II dt. 28-9-1995.

DOCUMENTS MARKED FOR THE RESPONDENT

Ex.M1: Copy of Ir. No.E.25(35)/73-Cont. dt.5-4-1974 appointment of H&T contractor Sri D. V. Subba Rao in 1974 at MRM, Sattenapalli and Godowns adjacent to Mill.

Ex.M2: Copy of Ir. No. 1/3/76-Estt dt. 24-10-76 appointment order of G. Sambaiah.

Ex.M3: Copy of Judgement under P.W. Act in P.W. Case No. 28/77 dt. 31-7-78.

Ex.M4: Copy of Award in ID No. 15/1978 dt. 7-4-1980.

Ex.M5: Copy of order and decree in C.M.A. No. 48/78 dt. 6-2-1981.

Ex.M6: Copy of Judgement in C.M.A. No. 48/78 dt. 6-2-1981.

Ex.M7: Copy of Judgement in WP No. 17306, 18193 and 18194/89 dt. 5-10-94.

Ex.M8: Copy of interim orders dt. 13-10-96 in WA Nos. 276, 277, 492 and 281 of 1995.

Ex.M9: Copy of the representation of the Petitioner (s) for absorption/regularization.

Ex.M10: Copy of proceedings No. IR-32/1/98-Vol. II dt. 28-9-95.

नई दिल्ली, 26 मार्च, 2003

का. आ. 1207.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण -II, धनबाद के पंचाट (संदर्भ संख्या 118/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-03-2003 को प्राप्त हुआ था।

[सं. एल-20012/11/98-आई. आर. (सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 26th March, 2003

S.O. 1207.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 118/99) of the Central Government Industrial Tribunal-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 24-3-2003.

[No. L-20012/11/98-IR(C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT

SHRI B. BISWAS
Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 118 of 1999

PARTIES : Employers in relation to the management of Angarpathra Colliery of M/s. BCCL and their workman.

Appearances:

On behalf of the workman : Shri S.C. Gaur,
Advocate

On behalf of the employers : Shri H. Nath,
Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 28th February, 2003

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/11/98-IR (C-1), dated the 29th January, 1999.

“Whether the action of the management of Angarpathra Colliery of M/s. BCCL in dismissing Sri Mansa Bhuia, M/Loader w.e.f. 7-9-96 from the services of the company only on the ground of unauthorised absence from duty is justified? If not, to what relief is the workman entitled?”

2. In this reference both the parties appeared and filed their respective W.S. Subsequently, in course of hearing learned Advocate for the workman submitted to pass a ‘No dispute’ Award as the concerned workman/the sponsoring Union is not interested to proceed with the hearing of the case. Learned Advocate for the management raised no objection if the instant reference is disposed of on the basis of ‘No dispute’ Award. Heard both sides. Since the concerned workman/sponsoring union is not interested to proceed with the hearing of the case, there is no reason to drag on the same any more. Under such circumstances, a ‘No dispute’ Award is rendered and the reference is disposed of on the basis of ‘No dispute’ Award presuming non-existence of any industrial dispute between the parties, presently.

B. BISWAS, Presiding Officer

नई दिल्ली, 26 मार्च, 2003

का. आ. 1208.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण -II, धनबाद के पंचाट (संदर्भ संख्या 33/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-03-2003 प्राप्त हुआ था।

[सं. एल-20012/88/94-आई. आर. (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 26th March, 2003

S.O. 1208.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 33/95) of the Central Government Industrial Tribunal-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CCL and their workman, which was received by the Central Government on 24-3-2003.

[No. L-20012/88/94-IR(C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD****PRESENT :** SHRI B. BISWAS
Presiding OfficerIn the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947**REFERENCE NO. 33 of 1995****PARTIES :** Employers in relation to the management
of Kedla Underground Project of
M/s. CCL P.O. Kedla and their workman.**Appearances :**On behalf of the workman : Shri C. Prasad,
AdvocateOn behalf of the employers : Shri D.K. Verma,
AdvocateState : Jharkhand Industry : Coal
Dated, Dhanbad, the 28th February, 2003**AWARD**

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/88/94-IR (Coal-1), dated the 10th March, 1995.

SCHEDULE

"Whether the action of the management of Kedla Underground Project, P.O. Kedla, Dist. Hazaribagh of CCL in not regularising Shri R.P. Sinha as Loading Supervisor in Clerical Gr. I is justified? If not, to what relief the workman is entitled and from which date?"

2. The case of the concerned workman according to the W.S. submitted by the sponsoring union on his behalf in brief is as follows :—

The sponsoring union submitted that the concerned workman was originally appointed as Time-rated workman on 26-2-77 at Kedla Project of M/s. CCL and he was entrusted with the job of Production Chaser. Thereafter the concerned workman was assigned with the duties of Loading/Despatch in Clerical Gr.- II and was eventually and practically entrusted with the job as a Loading Supervisor vide order issued through letter No. PO/KUGP/86/7077 dated 17-1-86 issued by the Project Officer, Kedla Project. They submitted further that the concerned workman also made representation for his regularisation as Loading Supervisor and one of his representation was duly recommended to the General Manager (H) Charhi by the Project Officer, Kedla Project vide his letter No. POKUGP/87/7101 dated 2-2-87. They alleged that inspite

of recommendation of the management of Kedla Project and also inspite of bonafide claim of the workman for regularisation appropriate authority did not take any step so far for consideration of the prayer in question. Accordingly the sponsoring union raised an industrial dispute before the ALC(C) Hazaribagh for conciliation proceeding which ultimately resulted reference to this Tribunal for Award. The sponsoring union accordingly submitted their prayer for passing Award directing the management to regularise the concerned workman as Loading Supervisor with effect from 1983, and fixing him in Clerical Gr. I along with all consequential benefits.

The management on the contrary after submitting W.S.-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the W.S. on behalf of the concerned workman. Management submitted that the concerned workman was initially appointed as Time rated worker on 26-2-77 and he was promoted to the post of Production Chaser with effect from 19-5-82. They submitted that the duties of Production Chaser are similar to the duties of Munshi in Clerical Grade-III and he was required to work under the control of the Mining Sirdar in the matter of assisting of production of coal. They further submitted that the concerned workman was deputed to look after the jobs of Despatch of coal and to maintain re-conciliation reports of coal to Giddi washery which also was of Clerical Type and thereafter the concerned workman submitted his representation on 11-7-1989 for allowing him to work in the Loading/Despatch Section on clerical job and further requested the management to regularise him as Loading/Despatch clerk in Clerical Gr. II. The representation of the concerned workman was duly sympathetically considered and he was regularised as Loading/Despatch Clerk in Clerical Gr. II vide office Order dt. 28-12-89. He was not promoted as Loading Supervisor in Clerical Grade-1. They submitted that the cadre scheme for Loading personal issued through Circular No. 38 dt. 25-9-84 stipulates the promotion of Loading clerk to the post of Asstt. Loading Inspector/Asstt. Loading Supervisor in Technical and Supervisory Grade-C. There is no Grade-I. A person working as Loading Clerk in Clerical Grade-II after completion of three years of experience is considered for his promotion to the post of Asstt. Loading Inspector/Assistant Loading Superintendent on the basis of recommendation of D.P.C. and accordingly there was no short cut route of regularisation of loading Clerk in Grade-I designating him as Loading Supervisor. They submitted that the concerned workman was never promoted to the post of Asstt. Loading Inspector or Assistant Loading Superintendent in Technical and Supervisory Grade-C and there exists no post of Loading Supervisor in Clerical Grade-I. Accordingly the demand of the sponsoring union for regularisation of the concerned workman as Loading Supervisor in Clerical Gr.-I is without any justification. The management submitted that the demand of the concerned

workman has no locus-standi and accordingly such prayer is liable to be rejected.

4. The points to be decided in this reference are :—

“Whether the action of the management of Kedla underground Project, P.O. Kedla, Distt. Hazaribagh of CCL in not regularising Shri R.P. Sinha as Loading Supervisor in Clerical Gr.-I is justified? If not to what relief the workman is entitled and from which date?”

FINDINGS WITH REASONS

5. It transpires from the record that the sponsoring union examined the concerned workman as witness to substantiate the claim in question. On the contrary the management examined two witnesses in support of their claim. Considering the evidence of the concerned workman as well as considering the evidence of the management and also considering relevant papers and records I find no dispute to hold that initially the concerned workman was appointed as Time rated worker on 26-2-77 and thereafter he got his promotion to the post of Production Chaser with effect from 19-5-82. It is the claim of the concerned workman that the management assigned the duties of Loading/Despatch work in Clerical Gr.-II and was eventually and practically entrusted with the job of Loading Supervisor in view of the management's Order bearing No. PO/KUGP/86/7077 dated 17-1-86. The said letter bearing No. PO/KUGP/85/7077 dated 17-1-86 issued by the Project Officer addressed to the Personnel Manager (Admn) in course of evidence of the concerned workman was marked as Ext. W-1. I have considered the letter in question and I find no dispute to hold that the said letter appears to be an ambiguous one. When the Project Officer admitted that the concerned workman was working as Production Chaser-cum-Munshi in Clerical Gr.-II I fail to understand how he opined thus he was working as Loading Supervisor and how he was recommended for his promotion in Clerical Grade-I. It is the specific claim of the management that there is no post of Loading Supervisor in NCWA and for which the designation which the Project Officer disclosed has no existence at all. The letter of the Project Officer is silent actually from which date the concerned workman started discharging his duties as Loading Supervisor. I also do not find any order issued by the management in this regard. Management submitted that as there is no post of Loading Supervisor question of consideration of the recommendation of the Project Officer did not arise at all. The management further submitted that promotion to Clerical Grade-I can be done through D.P.C. subject to fulfilment of the condition in question. Accordingly question of giving promotion to the concerned workman directly to clerical Gr.-I without facing D.P.C. as per recommendation of the Project Officer cannot be entertained. WW-1 during cross-examination also admitted this fact that promotion in Clerical Grade-I is given only through D.P.C. during hearing learned advocate for the

concerned workman has failed to show if there was any post of loading supervisor which is very much in existence in the colliery where the concerned workman is working. MW-2 during his evidence categorically submitted that there is no post of Loading Superintendent/Asstt. Loading Superintendent or supervisor post to look after the work of Loading operation at the bunker. The concerned workman was designated as Production Chaser and his job was similar to the job of Munshi. According to the prayer of the concerned workman his service was regularised as Loading Clerk on the surface. His duty was to look after the work of Loading of coal in trucks/tippers. He also issues challan in connection with such job. This witness further disclosed that on the basis of the challans the loaded coals used to be transported to the washery. Considering the record I find no dispute to hold that the concerned workman submitted his representation to the management with request for changing his desination as per work which he was doing. The said representation during evidence was marked as Ext. M-1. From this representation I have failed to find out any such material relying on which it can be said that he was working as Loading Supervisor/for long years and for which he placed his demand before the management to consider his promotion as loading Supervisor in Clerical Gr.-I though in the W.S. he has made such claim through his sponsoring union. It is seen that the management in view of his representation considered his prayer and issued order vide reference No. PO/KUGP/90/14654-58 dated 7-3-90 to the effect that the concerned workman had been redesignated as Clerk Gr.-II in his existing pay scale with effect from 28-12-89 against sanctioned vacant post of Clerk Grade-II of Kedla Underground Project. His name accordingly will be placed at the bottom of the seniority is of Clerical Gr.-II of KUGP. The office order marked as Ext. M-4 has also supported the office order marked Ext. M-5. Therefore, considering the office order marked as Ext. M-4 and M-5. I find no dispute to hold that the concerned workman was redesignated as Clerk Gr. II with effect from 28-12-89 and the concerned workman accepting that office order started working in the said grade. There is reason to believe that the recommendation made by the Project Officer marked as Ext. W-1 was not at all considered by the management otherwise they would not issue the office order marked Ext. M-4 and M-5. The concerned workman during his evidence has failed to produce single scrap of paper to show that he worked as Loading Supervisor under the management. The recognition of the concerned workman as Loading Supervisor by the Project Officer shows clearly that the Project Officer was not aware at all if any such post was existing or not under his control. There is reasons to believe that exceeding his limit the Project Officer recognised the concerned workman as Loading Supervisor. The Project Officer also was not aware that the promotion in Clerk Gr.-I can only be filled up as per recommendation of the D.P.C. It is unthinkable to note that the Project Officer who is the Head of office of the Project

was not aware how promotion of a workman from lower cadre to higher cadre is given. The sponsoring union in the W. S. submitted prayer for passing award directing the management to regularise the concerned workman as Loading Supervisory in Clerical Grade-I with effect from 1983. I have failed to understand how such prayer came into existence when from the office order it transpires that the concerned workman's service was regularised in Clerk Gr. II vide office order marked as Ext. M-4 and M-5 with effect from 28-12-1989. Onus absolutely lies with the sponsoring union to establish that since 1983 the concerned workman was working as Loading Supervisor under the management continuously in clerical Gr. I. On the contrary from the submission of the management it transpires clearly that initially, the concerned workman was appointed as Time-rated worker on 26-2-1977 and thereafter he was promoted to the post of Production Chaser with effect from 1982. It is the contention of the management that the duties of production chaser are similar to that of the Munshi in Clerk Gr. II. The concerned workman was deputed to look after the job of despatch of coal and to maintain reconciliation of coal at Giddi washery. The job assigned to him was absolutely clerical in nature. This fact which the management asserted cannot be denied by the concerned workman in course of this evidence. On the contrary from his own representation dt. 11-7-1989 clear picture has come out to show in which post he was working under the management. In that representation he never disclosed that he was entrusted with the job of Loading Supervisor by the management. I have failed to understand when such representation has come forward how the Project Officer recommended his case for getting his promotion as Loading Supervisor in Clerical Gr. I (Ex. W-1). Considering all aspects carefully I find no dispute to hold that with effect from 28-12-1989 the concerned workman was redesignated as Clerk Gr. II in his existing pay scale and against the sanctioned vacant post of Clerk Gr. II at KUGP and his name is placed at the bottom of the seniority list. This very order shows clearly that he is the junior most in Clerical Gr. II at KUGP. To get promotion in Clerical Gr. I not only three years continuous experience is required but the workman is also required to fulfil the requisite qualification and thereafter on recommendation of the D.P.C. the concerned workman is entitled to get the promotion to the higher post. It is clearly seen that the concerned workman till date did not appear before the D.P.C. As promotion in Clerical Gr. I can only be filled up through D.P.C. I have failed to understand how the claim of the concerned workman can be entertained without facing D.P.C. and also superseding his seniors when he had been considered as Junior most workman in Clerical Gr. II when his service was regularised in the said grade. If the prayer of the concerned workman is taken into consideration in that case the provision as laid down in NCWA in the matter of promotion

to Clerical Grade. I not only is to be ignored but also the cases of the senior most workmen who are also waiting for their promotion will be ignored equally. If it is so done I must say that it should not only be an illegal order but also it will violate the principles of natural justice. Accordingly after careful consideration of all the facts and circumstances I hold that the claim of the sponsoring union for giving promotion to the concerned workman in Clerical Gr. I does not stand on stable footing. In the result, the following Award is rendered :—

"The action of the management of Kedla Underground Project, P. O. Kedla, Distt. Hazaribagh of CCL in not regularising Shri R. P. Sinha as Loading Supervisor in Clerk Gr. I is justified. Consequently, the concerned workman is not entitled to get any relief."

B. BISWAS, Presiding Officer

नई दिल्ली, 26 मार्च, 2003

का. आ. 1209.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - II, धनबाद के पंचाट (संदर्भ संख्या 48/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-03-2003 को प्राप्त हुआ था।

[सं. एल-20012/69/96-आई. आर. (सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 26th March, 2003

S.O. 1209.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 48/97) of the Central Government Industrial Tribunal-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workmen, which was received by the Central Government on 24-3-2003.

[No. L-20012/69/96-IR(C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT

SHRI B. BISWAS,

Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947.

REFERENCE No. 48 of 1997

PARTIES : Employers in relation to the management of Bararee Colliery of M/s. BCCL and their workmen.

APPEARANCES :

On behalf of the workman : None.
 On behalf of the employers : Shri D. K. Verma,
 Advocate.
 State : Jharkhand Industry : Coal

Dhanbad, the 28th February, 2003

ORDER

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/69/96-IR (C-1), dated the 3rd April, 1997.

SCHEDULE

“Whether the action of the management of Bararee Colliery in denying to regularise, Sri Tapeswar Miner/Loader in T/Rated job is justified? If not, to what relief is the concerned workman entitled?”

2. In this reference neither the concerned workman nor his representative appeared before this Tribunal. However, the management made their appearance in it. It is seen from the record that the instant reference was received by this Tribunal on 13-4-1997 and since then it is pending for disposal. Registered notices were also issued to the workman but in spite of the issuance of notices the workman side has failed to turn up. In terms of Rule 10B of the I.D. Central Rules, 1957 submission of W. S. by the concerned within 15 days is a mandatory one. The concerned workman not only violated the said provision of the rules but also did not consider necessary to give any response to the notices issued by this Tribunal. In natural course the question which will arise is what will be fate of the reference made by the Ministry for its disposal. The reference is made on the basis of dispute raised by the concerned workman/union. Naturally responsibility rests with the concerned workman/union to assist the Court to dispose of the reference in issue on merit. In view of the decision reported in 2002(94) FLR 624 it will not be just and proper to pass ‘No dispute’ Award when both the parties remain absent. There is also no scope to answer the reference on merit in absence of any W.S. and available documents. There is no dispute to hold that when any reference is made it is expected to be disposed of on merit but when the parties do not take any step or do not consider even to file W.S. such expectation to dispose of the reference on merit comes to an end. It is not expected that for years together the Court will pursue the matter *suo motu* with the expectations for appearance of the parties in spite of

issuance of registered notices. As per I. D. Act the workman excepting under provisions of Section 2A is debarred from raising any industrial dispute. The disputes are mainly raised by the Union for their workmen. These Unions inspite of receiving notices did not care to appear before the Court for the interest of the workman and as a result they have been deprived of getting any justice. Until and unless the attitude of the union is changed I consider that this uncalled for situation will persist. Definitely it is the duty of the Court to dispose of the reference on merit but it depends on the cooperation of both sides. Here the record will clearly expose that sufficient opportunities had been given to the parties but yielded no result. This attitude shows clearly that the parties are not interested to proceed with the hearing of the case for disposal on merit.

In view of the facts and circumstances, I also do not find any sufficient reasons to drag on the case for an indefinite period. Accordingly as there is not scope to dispose of the reference in question on merit, the same is closed.

B. BISWAS, Presiding Officer

नई दिल्ली, 26 मार्च, 2003

का. आ. 1210.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा०को०को०लि० के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार में औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 149/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-3-2003 को प्राप्त हुआ था।

[सं. एल-20012/398/95-आई. आर.(सी-1)]

एस०एस०गुप्ता, अवसर सचिव

New Delhi, the 26th March, 2003

S.O. 1210.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref.No.149/96) of the Central Government Industrial Tribunal-II,Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 24-3-2003.

[No. L-20012/398/95-IR (C-1)]

S.S. GUPTA, Under Secy,

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
 INDUSTRIAL TRIBUNAL (NO.2) AT DHANBAD**

PRESENT:

SHRI B. BISWAS,
 Presiding Officer

In the matter of an Industrial Dispute under Section
 10 (1) (d) of the I. D. Act, 1947

REFERENCE No. 149 of 1996

PARTIES : Employers in relation to the management of Kuya Colliery of M/s. B.C.C.L. and their workman.

APPEARANCES :

On behalf of the workman : Shri K. Chakravorty, Advocate.

On behalf of the employer : Shri R.N. Ganguly, Advocate.

State : Jharkhand Industry : Coal.

Dated, Dhanbad, the 5th March, 2003.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/398/95-IR (Coal-I), dated, the 26-11-96/28-11-96.

SCHEDULE

“Whether the demand of the Union for regularisation as Shift Incharge in Technical Grade ‘D’ of Shri Ramayan Singh by the management of Bastacolla Area of M/s. BCCL is legal and justified? If so, to what relief is the said workman entitled?”

2. In this reference both the parties appeared and filed their respective W.S. documents etc. The case then proceeded along its course. Subsequently, in course of hearing learned Advocate for the workman side by filing a petition submitted to pass a ‘No dispute’ Award in this reference as the concerned workman involved in this dispute is not willing to proceed with the hearing. Learned Advocate for the management raised no objection if the instant reference is disposed of on the basis of the ‘No dispute’ Award. Perused the petition and heard both sides. Since the concerned workman involved in the dispute is not willing to proceed with the hearing of the instant reference, there is no reason to drag on the same. Under such circumstances, a ‘No dispute’ Award is rendered and the reference is disposed of on the basis of ‘No dispute’ Award presuming non-existence of any industrial dispute between the parties presently.

B. BISWAS, Presiding Officer

नई दिल्ली, 26 मार्च, 2003

का. आ. 1211.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टिस्को के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II धनबाद के पंचाट (संदर्भ संख्या 120/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-3-2003 को प्राप्त हुआ था।

[सं. एल-20012/263/95-आई. आर.(सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 26th March, 2003

S.O. 1211.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.No.120/96) of the Central Government Industrial Tribunal II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of TISCO and their workman, which was received by the Central Government on 24-3-2003.

[No. L-20012/263/95-IR (C-1)]

S.S.GUPTA, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2) AT DHANBAD.****PRESENT**

SHRI B. BISWAS,

Presiding Officer.

In the matter of an Industrial Dispute under Section 10 (1) (d) of the I. D. Act, 1947.

REFERENCE No. 120 of 1996

PARTIES : Employers in relation to the management of Jamadoba Colliery of TISCO. Ltd. and their workman.

APPEARANCES :

On behalf of the workman : None

On behalf of the employers : Shri D. K. Verma, Advocate.

State : Jharkhand Industry : Coal.

Dated, Dhanbad, the 4th March, 2003

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/263/95-IR (Coal-I), dated, the 26th September, 1996.

SCHEDULE

“Whether the demand by the Union is justified that Sh. Rajwan Ahmad is eligible for regularisation as Mech. Fitter w.e.f. 27-4-1990 as he is working continuously as Mech. Fitter after qualifying the trade test? If so, to what relief is the said workman entitled?”

2. The case of the concerned workman according to W.S. submitted by the sponsoring Union on his behalf in brief is as follows :—

The sponsoring union submitted that the concerned workman was employed under the management as Cat. I mazdoor on 21-7-80 and thereafter he got his promotion as Mechanical Fitter w.e.f. 28-6-84. They submitted that trade test for mechanical fitter was held on 24-4-90 and the concerned workman was qualified in the said Trade test which was communicated to him vide letter No. J/18/3000/90 dt. 12-11-5-90. They submitted that since the date of qualifying himself in the Trade test the concerned workman has been discharging his duties as Mech. Fitter to the satisfaction of the management. Accordingly, he submitted representation to the management for his regularisation as Mechanical Fitter with effect from 27-4-90, but the management did not consider his prayer. As a result the concerned workman raised an Industrial dispute for conciliation which ultimately resulted reference to this Tribunal. In view of the facts and circumstances stated above the sponsoring union submitted prayer on behalf of the concerned workman to pass award directing the management to regularise him as Mechanical Fitter Cat. V with effect from 27-4-90 along with other consequential benefit.

3. Management on the contrary after filing W.S. cum-rejoinder have denied all the claims and allegation which the sponsoring Union asserted in their W.S. They submitted that the concerned workman after getting his appointment as General Mazdoor in Cat. I on 21-7-80 was placed in the Mechanical Department as Mazdoor in Cat. I on 19-12-83 and at that time he got opportunity to get himself trained as helper to mechanical fitter. They submitted that considering his performance and after qualifying in the Trade Test the concerned workman was promoted to Cat. II Mechanical Fitter helper from Cat. I on 28-6-84. They disclosed that after attaining his proficiency in the work of Mechanical Fitter the concerned workman on 11-4-90 appeared in the Trade Test for Mechanical Fitter and as he was qualified in the said Trade Test he was allowed to work as Mechanical Fitter on leave and sick vacancies of permanent fitter and as soon as permanent vacancy of a mechanical fitter occurred on 1-1-93 he was promoted as Mechanical Fitter in Category V directly. They submitted that as per cadre scheme a Fitter helper can only be promoted to the post of mechanical fitter at the initial stage in category IV and after completion of more than 3 years of satisfactory service as category IV Fitter, he becomes eligible for consideration for promotion to the post of Mechanical Fitter in Cat. V. They submitted that in the instant case the concerned workman got special favour and was directly promoted to Cat. V Mechanical Fitter as soon as vacancy arose.

4. They submitted that the concerned workman being misguided by some interested person has raised this dispute which is not at all tenable in the eye of law. Accordingly, they submitted their prayer to pass award rejecting the claim of the concerned workman.

5. The points to be decided in this reference are :—

“Whether the demand by the Union is justified that Sh. Rajwan Ahmed is eligible for regularisation as Mech. Fitter w.e.f. 27-4-1990 as he is working continuously as Mech. Fitter after qualifying the trade test? If so, to what relief is the said workman entitled?”

FINDINGS WITH REASONS

6. It transpires from the record that as the concerned workman/union inspite of getting ample opportunities have failed to appear at the time of hearing, necessary order was passed to take up ex parte hearing of this case.

Considering the evidence of MW-1 and considering the facts disclosed in the pleadings of both sides I find no dispute to hold that the concerned workman was appointed as General Mazdoor Cat. I on 21-7-80. There is also no dispute to hold that the concerned workman was transferred to Mechanical Department as general mazdoor Cat. I on 19-12-83. It is seen that in course of discharging his duties as helper to mechanical fitter the concerned workman appeared in the Trade test and as he qualified in the said Trade test he got his promotion to Cat. II as Mechanical Fitter helper with effect from 28-6-84. Considering the submission of the concerned workman in the pleading and also considering the submission of the management there is no dispute to hold that the concerned workman was appeared in the Trade test for getting his promotion as mechanical fitter on 24-4-90. There is also no dispute to hold that the concerned workman qualified in the said Trade test and got his promotion as mechanical fitter Gr. V with effect from 1-1-93 and not from 27-4-90. It is the allegation of the sponsoring union that the management illegally and arbitrarily did not regularise the concerned workman as Mechanical Grade V with effect from 27-4-90. MW-1 in course of his evidence disclosed that the concerned workman in the Trade test was selected for the post of mechanical fitter Grade IV. He submitted that as per cadre scheme a Fitter in grade IV is eligible to get promotion in Grade V after completion of service continuously for three years. He disclosed that there was no vacancy of Mechanical Fitter grade IV when the concerned workman was qualified for the post of Mechanical Fitter grade IV. As such his name was empanelled with the intimation that he will be posted in the post of Fitter Cat. IV whenever the vacancy would arise. However, as interim measure the concerned workman was provided with the grade of mechanical fitter Grade IV temporarily on leave and sick vacancy and he was paid difference of wages for discharging his duties as Mechanical Fitter Grade IV. Thereafter on 1-1-93 a vacancy in the post of Mechanical Fitter grade V arose and the concerned workman was given promotion to that post considering the fact that his promotion could not be given in Grade IV due to non-availability of the vacancy. Accordingly this witness

disclosed that the claim of the concerned workman for getting his promotion to the post of Mechanical Fitter Grade V with effect from 27-4-90 was not justified.

7. Considering the submission of the management it transpires that as per cadre scheme a Fitter helper can only be promoted to the post of Mechanical Fitter at the initial stage in Grade IV and after completion more than three years continuous service he is eligible for consideration of his promotion to the post of Mechanical Fitter Grade V. It is the contention of the management that no vacancy for the post of Mechanical Fitter Grade IV was existed when the concerned workman qualified in the Trade test held on 11-4-90. Accordingly, his name was empanelled and he was provided with the job of Mechanical Fitter grade IV on leave and sick vacancy and difference of wages was paid to him. Further contention of the management is that when a vacancy to the post of Mechanical Fitter Grade V arose on 1-1-93 they promoted the concerned workman to the post of Mechanical Fitter Grade-V superseding the provision of the Cadre scheme.

8. Question of giving promotion to the higher post depends on the existence of vacancy. It is the specific contention of the management that no vacancy was existed in the post of Mechanical Fitter Gr. IV when the concerned workman was qualified in the Trade Test. As such it is to be looked into whether the management avoided to give promotion to the concerned workman inspite of his getting qualified in the Trade Test. The sponsoring union could have been considered as the befitting wing to highlight this aspect to justify the falsity of the claim of the management but neither the sponsoring union nor the concerned workman in course of hearing could be able to produce any cogent evidence in this regard. On the contrary it transpires from the evidence of MW-1 that due to non-availability of vacancy as they failed to give any promotion to the concerned workman they not only empanelled his name but also used to deploy him in leave and sick vacancy and they paid difference of wages to him for discharging his higher responsibility. No material evidence is forthcoming on the part of the sponsoring union denying such claim of the management.

9. There is no dispute to hold that as per N.C.W.A. post of Mechanical Fitter is considered as Cadre post. From Helper Mechanical Fitter promotion is initially given to Grade-IV Mechanical Fitter. As per cadre scheme promotion to Grade-V Mechanical Fitter is considered after rendering continuous service for three years in the post of Mechanical Fitter. Here in the instant case it transpires that management directly promoted the concerned workman to the post of Mechanical Fitter Grade V with effect from

1-1-93 superseding the promotional policy as laid down in the cadre scheme as per N.C.W.A. This attitude of the management shows clearly that they took sympathetic view to consider the promotion of the concerned workman when they could not give him promotion to Mechanical Fitter Grade-IV after he was qualified in the Trade test. Question of regularisation depends on the availability of vacancy. It is seen that the management could not give him promotion due to nonavailability of vacancy. I have carefully considered all the materials on record carefully and failed to find out any material fact relying on which there is any scope to say that management committed any illegality in not meeting the claim of the concerned workmen. On the contrary it transpires that the management superseding the promotional policy promoted the concerned workman to Mechanical Fitter Grade V, the moment the vacancy arose.

Accordingly I hold that the claim of the sponsoring union finds no basis and for which the concerned workman is not entitled to get any benefit.

In the result, the following Award is rendered :—

“The demand of the Union is not justified that Sh. Rajwan Ahmed is eligible for regularisation as Mech. Fitter w.e.f. 27-4-1990 as he is working continuously as Mech. Fitter after qualifying the Trade Test. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 26 मार्च, 2003

का. आ. 1212.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II, धनबाद के पंचाट (संदर्भ संख्या 166/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-3-2003 को प्राप्त हुआ था।

[सं. एल-20012/194/2000-आई. आर.(सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 26th March, 2003

S.O. 1212.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 166/2000) of the Central Government Industrial Tribunal II Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 24-3-2003.

[No. L-20012/194/2000-IR(C-1)]

S.S. GUPTA, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO.2) AT DHANBAD****PRESENT :** Shri B. Biswas, Presiding Officer.In the matter of an Industrial Dispute under Section 10
(1) (d) of the I. D. Act, 1947.**REFERENCE NO. 166 OF 2000****PARTIES:** Employers in relation to the management
of Tetulmari Colliery of M/s. BCCL and
their workman.**APPEARANCES:**On behalf of the workman : Shri R.A. Ghamaria,
Advocate.On behalf of the employers : Shri H. Nath,
Advocate.

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 5th March, 2003

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/194/2000 (C-1), dated, the 18th October, 2000.

SCHEDULE

"Whether the action of the Management of Tetulmari Colliery of M/s. BCCL in recording the date of birth of Smt. Champa Kamin as 6-7-42 without getting the age medically assessed by the medical authorities is justified ? If not, to what relief is the concerned workman is entitled ?"

2. The case of the concerned workman according to W.S. submitted by the sponsoring Union in brief is as follows :—

She submitted that on 26-1-73 she got her appointment at Tetulmari Colliery under the management and at that time management wrongly recorded her date of birth as 6-7-1942 at their sweet will without any basis and also without her knowledge. Thereafter, from Tetulmari Colliery management transferred her at Sijua as Security Guard. She submitted that while she was posted at Nichitpur Colliery in the year 1987 management issued service excerpt to her wherein the particulars were already filled in by the management and she was simply asked to put her L.T.I. on the same. At that time management did not explain her the contents of the said service excerpt and on good faith she

returned back the service excerpt after putting her LTI therein. Subsequently when she came to know that her date of birth was wrongly recorded therein as 6-7-42 she submitted representation to the management for its correction but the management did not pay any importance to her prayer.

3. She submitted that in terms of service rules and N.C.W. As. her age ought to have been ascertained by the Medical Board but the management illegally and arbitrarily violating the principles of natural justice refrained themselves from sending her to Medical Board for assessment of her age. She alleged that the management recorded her date of birth as 6-7-42 without consulting any paper or without any basis. Accordingly, she submitted her prayer to pass award directing the management to assess her age through Medical Board and the same be recorded in the records of the employer for the purpose of her employment.

4. Management on the contrary after filing W.S. Cum rejoinder have denied all the claims and allegation which she asserted in her W.S. They submitted that the concerned workman on 26-1-73 was initially appointed as wagon loader and at that time her date of birth was recorded as 6-7-42. They disclosed that while the concerned workman was posted at Nichitpur colliery service excerpt was issued to her on 6-8-87 with advise to put objection, if any with regard to the entries made therein. She returned back the said service excerpt to the management without raising any objection in relation to her date of birth recorded therein. They submitted that Form B Register is a statutory Register under the Mines Act and accordingly entries made therein are on the basis of declaration made by the workman. They disclosed that since the date of birth of the concerned workman recorded as 6-7-42 in all the records of the company and as there was no variation or alteration in any record they did not consider fit to send the concerned workman before the Medical Board for assessment of her age as per circular No. 76 issued by the JBCCI. Accordingly, they submitted their prayer to pass award rejecting the claim of the concerned workman

5. The points to be decided in this reference are :

"Whether the action of the Management of Tetulmari Colliery of M/s. BCCL in recording the date of birth of Smt. Champa Kamin as 6-7-42 without getting the age medically assessed by the medical authorities is justified ? If not, to what relief is the concerned workman is entitled ?"

6. DECISION WITH REASONS

It transpires from the record that the concerned workman examined herself as a witness in order to substantiate her claim. Management also examined one witness in order to rebut the claim of the concerned workman. Considering the evidence of both sides and considering the materials on record it transpires that the concerned workman initially was appointed as Wagon Loader at Tetulmari colliery under the management in the year 1973. From Tetulmari colliery she was transferred to Nichitpur colliery and thereafter she was transferred at Sijua area as Security Guard. She disclosed that as she is an illiterate lady at the time of her entry in the service management at their sweet will mentioned her date of birth as 6-7-1942 wrongly as because her age at that time was not determined through medical board. She disclosed that her husband is also a workman under the management and his date of birth is recorded as 1948. Referring this fact she submitted that she cannot be older than that of her husband. She admitted that in the year 1987 management issued service excerpt to her for raising objections if any in respect of her age recorded therein. Admitting this fact she disclosed that as she is an illiterate lady management without disclosing anything about the contents in the service excerpt obtained her L.T.I. therein. Subsequently when she came to know that her age had been recorded wrongly therein she submitted representation before the management for rectification of her age therein and for doing so she submitted prayer for assessment of her age through medical board but the management refused to consider her prayer.

7. The management on the contrary submitted that at the time of entry in the service date of birth of the concerned workman was recorded as 6-7-1942. Thereafter in the year 1987 service excerpt was issued to the concerned workman where in also her date of birth was recorded as 6-7-1942. The concerned workman returned back the service excerpt to them putting her L.T.I. therein without raising her objection in the matter on her date of birth. They further submitted that in the Form B Register the same date of birth was recorded. They disclosed as Form B Register is a statutory register under the Mines Act until and unless any serious discrepancy is transpired in the entry the same should be considered as final. They also relied on the instruction of J.B.C.C.I Circular No. 76. They further submitted that the claim of the concerned workman is barred by the law of limitation as she raised the dispute in question long after issuance of service excerpt to her. During evidence of MW-1 the service sheet of the

concerned workman maintained by Nichitpur colliery was produced and marked as Ext. M/2 which speaks clearly that the date of birth was recorded as 6-7-42. The service excerpt as well as relevant part of the Form B register where the name and other particulars of the concerned workman had been recorded (Ext. M-1 and W-3) shows clearly that her date of birth was recorded as 6-7-1942. Accordingly, considering these official records there is no dispute to hold that age of the concerned workman was recorded as 6-7-42.

8. It is seen that the concerned workman admitting the fact of recording her date of birth as 6-7-42 submitted that it was recorded wrongly without her knowledge. She submitted that as she is an illiterate lady she did not get any scope to verify the age recorded in the Form B Register at the time of her entry in the service and management taking the opportunity of the same recorded that date of birth as of their sweet will. She alleged that the management ought to have assessed her age through medical board for proper entry in the service record at the time of her entry in the service as per JBCCI Circular No. 76 but they did not consider necessary to do. She did not raise any dispute relating to service excerpt in question but she submitted categorically that all the contents in the service excerpt were filled up before hand and management obtained her L.T.I. therein without reading over and explained its contents to her. She submitted that when she came to know that her age was wrongly recorded in the official register submitted representation to the management for correction of her age on proper assessment through Medical Board. But she was refused.

9. Considering the contention of the concerned workman it transpires clearly that she did not claim for rectification of her age on the basis of any document produced by her. She absolutely placed her reliance on the report of the Medical Board as she agitated that she cannot be older than her husband. Considering the evidence of both sides and also considering the materials on record there is no dispute to hold that the concerned workman is an illiterate lady and for which it was not possible on her part to assess what was written in the official record until and unless it was read over and explained to her. From the remarks column of the Form B Register as well as from the service excerpt I do not find any whisper if the contents of the service particulars including age recorded therein was actually read over and explained to her. It is the cardinal principle of law that before obtaining any L.T.I. in any paper of an illiterate person its contents must be read over and explained to him or her and to that effect an endorsement

should be made. Considering the evidence of the concerned workman there is reason to believe that she could not produce any cogent paper in support of her age to the officials of the management at the time of her entry in the service. Therefore the management cannot avoid their responsibility to explain how the date of birth of the concerned workman was recorded in the Form B Register. The management however, submitted that in the year 1987 service excerpt was handed over to the concerned workman with a view to give opportunity to make her submission in respect of any entry made therein. They submitted that without raising any objection she returned back the service excerpt putting her LTI therein. From the contention of the workman on the contrary I find a different picture. She submitted categorically that all the entries in the service excerpt were filled up before hand and the management without disclosing its contents obtained her LTI and for which it was not possible what was written therein. The service excerpt during evidence of MW-1 was marked as Ext. M-1. It transpires clearly that one LTI is appearing on the reverse page at the bottom most column. There is no scope to ascertain whose LTI, it is. There is also no whisper if the contents of the service excerpt was read over and explained to the workman and endorsement was made to that effect. Accordingly from this paper there is no scope to draw any conclusion that the concerned workman being satisfied with its contents put her LTI therein. Now let us consider what instructions have been given in J.B.C.C.I. Circular No. 76. "In clause IV of the J.B.C.C.I. circular it has been mentioned that in the case of the appointees not covered under foregoing clauses i.e. clause (i) to (iii) the date of birth will be determined by the colliery Medical Officer in respect of an illiterate person keeping in view of any documentary and other relevant evidence as produced by the appointee. The date of birth as determined shall be treated as correct date of birth and the same will not be altered under any circumstances."

Therefore, it is clear that the age of the workman should be ascertained by the Medical Board if the workman fails to produce any authentic paper in support of her claim" she is illiterate. It is not the case of the management that on the basis of documents produced by the concerned workman her date of birth was recorded in the Form B Register. I have already discussed above relying on the submission of the workman how her date of birth was recorded in the register at the time of his entry in her service. Management submitted that as the claim of the concerned workman is barred by limitation there was no scope to entertain her claim particularly when

she did not raise any objection inspite of receiving the service excerpt. The concerned workman in course of her submission made it clear why she could not submit her objection and that aspect I have already discussed above. It is the specific submission of the concerned workman that as soon as she came to know about wrong recording of her age she submitted representation for its rectification after her age being assessed by the Medical Board. She submitted that as her representation was ignored by the management she through sponsoring union raised industrial dispute for conciliation said representation of the concerned workman during her evidence was marked as Ext. W-2. It is seen that well before her date of superannuation she raised that industrial dispute before the ALC(C) Dhanbad and the management gave their reply before the ALC(C) on 28-1-99 marked as Ext. W-3. I have carefully considered the reply given by the management and failed to find out any positive explanation why the management refused to send the concerned workman before medical board for assessment of her age particularly when they have failed to explain on the basis of which paper date of birth of the concerned workman was recorded as 6-7-42 in the Form B Register. In strict sense there is no scope for application of limitation Act for rejecting the claim of a person. It's application actually depends on the facts and circumstances of the cases individually. Here it is to be taken into consideration that the concerned workman is an illiterate lady. No evidence is forthcoming to show that the concerned workman was very much aware of her date of birth recorded in the official record. It is seen that about four years before his alleged date of superannuation she made her representation. There was scope accordingly on the part of the management to send her before medical board for assessment of her age but they did not do so taking this plea that as the date of birth of the concerned workman was recorded in the official record properly and also as the Form B Register is considered as statutory register as per Mines Act all entries therein are to be accepted and the same is binding upon the parties as per J.B. C.C.I. Circular No. 76.

10. There is no dispute to hold that Form B Register is a statutory register but before it is considered that all entries therein are binding upon the parties, it is to be taken into consideration if the entries were made properly within the knowledge of the workman or not. Here in the instant case it transpires that the concerned lady is an illiterate lady. She has categorically disclosed that management recorded her date of birth as of their sweet

will and not according to the provision as laid down in Cl. IV of J.B.C.C.I Circular. Accordingly, onus on the part of the management to establish that the age of the concerned workman was recorded either on the basis of papers submitted by her or on the basis of the report of the Medical Board and after recording its contents were read over and explained to her and to that effect necessary endorsement was made. It is seen that the management took rigid view in rejecting the prayer of the concerned workman without assign any cogent reason. In the industrial law equity and natural justice play vital role. Without taking rigid view there was scope on the part of the management to send the concerned workman before medical board for assessment of her age and on that case it would meet the principle of natural justice particularly when they have failed to establish on the basis of which material her date of birth was recorded as 6-7-42.

Accordingly, after careful consideration of all the facts and circumstances I hold that the claim of the concerned workman stands on cogent footing and for which I consider that her age is required to be assessed by the Apex Medical Board in view of her prayer.

In the result, the following award is rendered:—

“ The action of the management of Tetulmari Colliery of M/s. B.C.C.L. in recording the date of birth of Smt. Champa Kamin as 6-7-42 without getting her age medically assessed by the medical authorities is not justified. Consequently, the management is directed to assess the age of the concerned workman through Apex Medical Board within three months from the date of publication of the Award in the Gazette of India.”

B. BISWAS, Presiding Officer.

नई दिल्ली, 26 मार्च, 2003

का. आ. 1213.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टिस्को के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II धनबाद के पंचाट (संदर्भ संख्या 47/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-3-2003 को प्राप्त हुआ था।

[सं. एल-20012/449/96-आई. आर.(सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 26th March, 2003

S.O. 1213.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref.No.47/98) of the Central Government Industrial Tribunal II Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Tisco and their workman, which was received by the Central Government on 24-3-2003.

[No. L-20012/449/96-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT

SHRI B. BISWAS,

Presiding Officer.

In the matter of an Industrial Dispute under Section 10 (1) (d) of the I. D. Act, 1947.

REFERENCE NO. 47 OF 1998

PARTIES: Employers in relation to the management
TISCO and their workman.

APPEARANCES:

On behalf of the workman : None.

On behalf of the employers : Shri D.K. Verma ,
Advocate.

State : Jharkhand Industry : Coal.

Dated, Dhanbad, the 25th Feb, 2003.

ORDER

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(I)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/449/96 IR (Coal-I), dated, the 20th February, 1998

SCHEDULE

“Whether the action of the Management of M/s. TISCO in denial to give employment to Shri Birbhanjan Pandey, dependent of Shri Kumar Pandey, Ex. Mining Sirdar is justified? If not, to what relief the concerned workman is entitled?”

2. In this reference neither the concerned workman nor his representative appeared before this Tribunal. However, only the management made their appearance in it. It is seen from the record that the instant reference was received by this Tribunal on 16-3-98 and since then it is pending for disposal. Registered notices were also issued to the workman but inspite of the issuance of notices the workman side has failed to turn up. In terms of Rule 10B of the I.D. Central Rules, 1957 submission of W. S. by the concerned workman within 15 days is a mandatory one. The concerned workman not only violated the said provision of the rules but also did not consider necessary to give any response to the notices issued by this Tribunal. In natural course the question which will arise is what will be the fate of the reference made by the Ministry for its disposal. The reference is made on the basis of dispute raised by the concerned workman/union. Naturally responsibility rests with the concerned workman/union to assist the Court to dispose of the reference in issue on merit. In view of the decision reported in 2002(94) FLR 634 it will not be just and proper to pass ‘No dispute’ Award

when both the parties remain absent. There is also no scope to answer the reference on merit in absence of any W.S. and available documents. There is no dispute to hold that when any reference is made it is expected to be disposed of on merit but when the parties do not take any step or do not consider even to file W.S. such expectation to dispose of the reference on merit comes to an end. It is not expected that for years together the Court will pursue the matter suo moto with the expectations for appearance of the parties inspite of issuance of registered notices. As per I.D. Act the workman, excepting under provisions of Section 2A is debarred from raising any industrial dispute. The disputes are mainly raised by the union for their workman. These unions inspite of receiving notices did not care to appear before the Court for the interest of the workman and as a result they have been deprived of getting any justice. Untill and unless the attitude of the union is changed I consider that this uncalled for situation will persist. Definitely it is the duty of the Court to dispose of the reference on merit but it depends on the cooperation of both sides. Here the record will clearly expose that sufficient opportunities had been given to the parties but yielded no result. This attitude shows clearly that the parties are not interested to proceed with the hearing of the case for disposal on merit.

In view of the facts and circumstances, I also do not find any sufficient reasons to drag on the case for an indefinite period. Accordingly as there is no scope to dispose of the reference in question on merit, the same is closed.

B. BISWAS, Presiding Officer

नई दिल्ली, 26 मार्च, 2003

का. आ. 1214.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-1, धनबाद के पंचाट (संदर्भ संख्या 64/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-3-2003 को प्राप्त हुआ था।

[सं. एल-20012/119/93-आई. आर.(सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 26th March, 2003

S.O. 1214.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 64/94) of the Central Government Industrial Tribunal-I, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 24-3-2003.

[No. L-20012/119/93-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD.

In the matter of an reference under Section 10 (1) (d)(2A) of the Industrial Disputes Act, 1947.

REFERENCE NO. 64 OF 1994

Parties: Employers in relation to the management of Sendra Bansjora Colliery of M/s. BCCL

AND

Their Workman.

Present : Shri S.H. Kazmi,
Presiding Officer.

Appearances :

For the Employers : Shri D.K. Verma,
Advocate.

For the Workman : Shri S.C. Gour,
Advocate

State : Jharkhand Industry : Coal.

Dated, the 12th March, 2003.

AWARD

By Order No. L-20012/119/93-I.R. (Coal-I) dated 24-3-1994 the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-sec. (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the Management of Sendra Bansjora Colliery of M/s. BCCL is justified in not accepting the date of birth as 27-1-1941 of Shri K.N. Sharma? If not, to what relief is the workman entitled?"

2. Precisely, the case of the sponsoring union is that the concerned workman, K.N. Sharma, was originally employed on 15-4-1964 in Central Gareria Colliery which later on merged with Sendra Bansjora Colliery after nationalisation and at the time of his appointment his date of birth was recorded as 27-1-1941 which was also reflected in the Identity Card which was issued to him after nationalisation. It has been said that after few years he was issued with Antenna Identity Card also in which his age was mentioned as 36 years as on 1-1-1977 which almost tallies with the date of birth as mentioned in earlier Identity Card. In the CMPF record also, it has been said, that the Age date of birth of the concerned workman is mentioned as 27-1-1941. Further, it has been said that though there was no reason to determine the age of the workman by the Age Assessment Committee but the management compelled him to appear before the Medical Board but he was not informed about the finding of the Medical Board. It was only when the management distributed the service excerpt to all the workers including the workman concerned in the year 1987, he came to know that this age or date of birth has been mentioned as 24-7-1936 against which he objected in

the service excerpt. It has further been said that subsequently industrial dispute was raised before the A.L.C. (C), but as no conciliation could be arrived at the report in that regard was sent to the appropriate Government which later on referred the dispute to this Tribunal for adjudication. It has been said that during the conciliation proceeding the management in its petition filed admitted the entries made in those two Identity Cards but failed to explain as to on what basis the same were mentioned there when according to them there was no date of birth mentioned in Form 'B' Register. It is also said that the finding of the Medical Board cannot be sustained as the Board did not function in the year 1986 in accordance with Implementation Instruction No. 76 as an forensic expert was included in the said Board. Lastly it has been said that the action of the management in not accepting the date of birth as 27-1-1941 was not justified and the concerned workman is entitled for the relief as prayed for.

3. The management's case, on the other hand, is short, is that the concerned workman was appointed on 15-4-1964 but in the statutory register *i.e.* Form 'B' register his date of birth was not mentioned and the age column of the said register was found to be blank and further CMPF register also did not indicate his date of birth. It has been said that in the Identity Card issued to the concerned workman his date of birth has been shown as 27-1-1941 and since Identity Card are prepared on the basis of the particulars contained in the Form 'B' Register maintained as per the provisions of law and since in that register the date of birth of the concerned workman was not mentioned, it appeared that the concerned workman managed to get his date of birth shown as 27-1-1941 at the time of issuance of Identity Card after nationalisation of the Coal mines. Further it is said that in absence of age recorded in Form 'B' Register the clerk issuing Identity Cards should not have put the date of birth as 27-1-1941 and the matter should have been brought to the notice of the concerned authority for assessing the age of the concerned workman by the Medical Board. It is also said that similarly on the basis of Antenna Identity Card also his age was mentioned as 36 years which led to the conclusion that his date of birth was January, 1941. Further the case is that the management took decision to prepare service excerpt in respect of each and every workman and before doing so wanted to verify the record and in the processing of verification it was observed that the Form 'B' register of the colliery as well as CMPF register did not contain the date of birth or age of the concerned workman. The management then took decision to send the concerned workman before the Medical Board/Age Assessment Committee for assessment of his age. The concerned workman appeared before the Medical Board on 24-7-86 and his age was assessed as 50 years on that date. Accordingly his date of birth was computed on 24-7-1936. Further, it is said that the concerned workman was issued service excerpt on 13-5-87 in which his date of birth was shown as 24-7-36 and date of appointment was shown as 15-4-1964. The concerned workman was asked to report the

same to the management after filling up the blank columns and submitting the proposed corrections, if any. But the concerned workman showed his educational qualification as non-matric and provided other details, but did not propose any correction in the date of appointment nor in the date of birth. Further it is said that the concerned workman subsequently realized that his game has been discovered by the management and he would not derive the advantage of his own manipulation and so he raised an industrial dispute which was later referred to this Tribunal. It has also been said that the concerned workman declared himself as non-matric which necessarily means that he appeared in matriculation examination and failed and if it was so he could have submitted his Admit Card, mark-sheet and certificate from school to show his date of birth as recorded in his school at the time of his admission. It is also said that in absence of any authentic document and conclusive proof, it is difficult to accept the claim of the concerned workman that his date of birth was 26-1-1941. It has also been said that the age of the concerned workman was 50 years on 24-7-1986 as assessed by the competent Medical Board duly constituted by the management in accordance with the JBCC Circular No. 76 and the concerned workman can not have any grievance against the management for taking recommended and legal steps for assessing his age when he could not produce any evidence to prove his correct age at the time of sending him to Medical Board. Lastly it has been said that the demand of the concerned workman for accepting his date of birth as 27-1-1941 is unreasonable and without any justification and as such he does not deserve any relief whatsoever.

In its rejoinder to the workman's written statement also several statements made on behalf of the workman have been denied or controverted and the stands taken in the written statement, as noticed above, were reiterated.

Likewise, in the workman's rejoinder also while denying several averments made in the management's written statement it was re-asserted that the management ought to have accepted the date of birth of the concerned workman as 27-1-1941, the same as was mentioned in the Identity Card issued to him.

4. In view of the stand taken on behalf of the respective sides, as noticed above it is evident that since the concerned workman is no more in service after 1996 the moot question that requires consideration for the disposal of the instant case is as to whether he was rightly superannuated or not in the year 1996 on the basis of his date of birth or age as assessed or determined by the Medical Board in the year 1986. The grant of any relief to the concerned workman would depend upon the finding arrived at on the aforesaid pertinent issue involved.

5. In support of their respective stands both the sides have adduced their oral as well as documentary evidence. One witness was examined on behalf of the management

and likewise one witness was examined from the side of the workman also, who is none other than the workman himself. The documents filed on behalf of the management are marked Exts. M-1 to M-3 and those which are marked on behalf of the workman are Exts. W-1 to W-4. Significance and relevancy of those materials produced would be considered in course of discussions made hereinafter.

6. During the arguments it has been strenuously urged that assuming for the moment that there was no date of birth mentioned in Form 'B' Register of Sendra Bansjora Colliery but since the date of birth of the concerned workman was clearly mentioned in the Identity Card issued to him after nationalisation there was no reason for the management for not accepting the same to be correct and to proceed in accordance with that specially when there was no denial to the effect that the same was issued by the management itself and none else. It has also been urged that there was no occasion for the management to refer the concerned workman to Medical Board and in fact he never appeared before the Medical Board and never any assessment of this age was made by the Board. Further the contention is that at the time of his appointment the date of birth of the concerned workman was recorded as 27-1-1941 and the same finds mentioned in his Identity card also and had the Form 'B' register of erstwhile colliery been produced by the management the position would have become clear. It is also contended that when the service excerpt was issued to him the concerned workman raised the objection and mentioned about his correct date of birth but even then the management did not take any step and so ultimately he was left with no other alternative but to raise the industrial dispute through the concerned union.

On the other hand, the contention on behalf of the management is that the concerned workman was appointed in the year 1964 but in the Form 'B' Register the column meant for mentioning the date of birth or age was blank which was discovered in the year 1986 when the processing and verification of records for the purpose of issuing service particulars were going on. Since it was found that there was no mention of date of birth of the concerned workman in Form 'B' Register but even then the concerned workman was having Identity Card where specifically date of birth was mentioned, it was considered proper to get the age of the concerned workman verified or assessed by Medical Board duly constituted for that purpose so that the same could be entered in Form 'B' register and on the basis of which the management could proceed further. Accordingly, the concerned workman appeared before the Medical Board and his age was assessed by the Medical Board as 50 years as on that date, which meant that he was to be superannuated sometime in the year 1996. It has also been contended that following the JBCCI instruction in the said regard it was just and proper on the part of the management to get the age of the concerned workman asserted or verified through Medical Board and as regards that the concerned

workman never raised any objection and further as regards his actual date of birth neither at the time of appearing before the Medical Board nor even thereafter the concerned workman produced any certificate or any document whatsoever though in his service particulars he had clearly mentioned that he was a non-matric showed that he had studied in a school also upto high standard. It has also been urged that the concerned workman was rightly superannuated and much belatedly he raised the industrial dispute just to put in some more years of service on the basis of few manipulated documents.

7. It is evident that for the present purpose much stress on behalf of the workman is no two documents, namely, the two Identity Cards. In one (Ext. W-2) the date of birth of the concerned workman is mentioned as 27-1-1941 and in another one which has been described as antenna Identity Card (Ext. W-2/1) though there is no specific date of birth mentioned but the age stands mentioned as 36 years as on 1-1-77. It has not been denied that in Form 'B' register of the concerned colliery, namely, Sendra Bansjora Colliery (Ext. M-1) there is no mention about the date of birth or the age of the concerned workman and the column meant for that purpose is blank. The question is that when there is no date of birth mentioned in Form 'B' register then on what basis the date of birth is mentioned in the aforesaid manner in those Identity Cards because it is well known that the particulars in the Identity Card are always in accordance with the particulars mentioned in the service record or Form 'B' register which is considered to be a statutory register being maintained under Sec. 48 of the Mines Act. In this regard the management says that quite obviously the entries in the aforesaid regard in those Identity Cards are manipulated one and the same were entered in the Identity Card at the behest of the concerned workman illegally and without authorisation as in absence of any such entry in the Form 'B' register there was no question of mentioning in that regard in the Identity Card or for that matter in any other documents. On the other hand, the workman's assertion on this aspect is that since the Identity Card was issued by the management it is for the management to satisfy as to on what basis the entries in the aforesaid regard was made in the Identity Card. It has also been forcefully contended that the concerned workman was appointed in the year 1964 during which the colliery was under private management and the same was being called Central Gareria Colliery which was subsequently nationalised and merged into Sendra Bansjora Colliery and further is that the contention in the records of the said colliery at the time of appointment the date of birth of the concerned workman was mentioned in the same way as it stands mentioned in the Identity Card which was issued after nationalisation. The contention is that if the Form 'B' register of erstwhile colliery would have been produced by the management in the instant case it could have made the position clear and would have supported the stand of the workman. Significantly though the said Form 'B' register of

the said erstwhile colliery has not been produced in this case but as it is apparent from the records, alongwith its rejoinder itself filed to the management's written statement the workman or the union has supplied a photo copy of Form 'B' register of Central Gareria colliery wherein the name of the concerned workman is mentioned at serial No.12 and his age has been described as 30 years as on 15-4-1964 which has been shown as date of commencement of employment if the entry made in this Form 'B' register regarding date of birth is to be believed then the date of birth of the concerned workman is 15-4-1934 or at least sometime in the year 1934. This document filed on behalf of the workman instead of supporting his claim rather goes against him and quite evidently the same shows that his date of birth is not even that much which has been assessed by the Medical Board because as per Board's finding the year of birth of the concerned workman was 1936 whereas the aforesaid document (Form 'B' Register) shows the year of his birth as 1934. Therefore, the workman's own document falsifies his stand that at the time of appointment in the erstwhile colliery his date of birth was mentioned as 27-1-1941 and in fact it was on that basis after nationalisation in the identity card the same date of birth was mentioned. During the pendency of this proceeding the workman has filed a photo copy of the Bonus Register also to show that in the same also his date of birth is mentioned as 27-1-1941. Firstly, there is no statement in the written statement of the workman regarding any such Bonus Register or entries made therein and secondly, the management's witness (MW-1) has made it clear in his evidence that being a clerk the Bonus Register was being maintained by the concerned workman and the date of birth mentioned in Bonus Register (Exts. W-1 and W-1/1) has been mentioned by the concerned workman himself. He further stated that the Bonus Register used to remain in the custody of the concerned workman. The concerned workman (WW-1) himself also has described his designation as Register Keeper. Neither there is any denial by him in respect of the maintenance of Bonus Register by him nor there is any statement from him that those registers were never remained in his custody. In such circumstances not much importance can be attached to any such entry in the Bonus Register.

Besides the above, it is not the case of the concerned workman or the union that either at the time of take over or nationalisation of coal mines or at the time he appeared before the Medical Board for assessment of his age or at any point of time in proof of his age the concerned workman produced the school certificate or the certificate of any other nature issued by the competent authorities. At this stage one certificate granted by a Mukhiya has been produced which according to the own statement of the workman during his evidence, was not produced before the management earlier. In his evidence he has not stated anywhere about the submission or production of any document by him before the management in proof of his

age. In service excerpt (Ext.M-3) he has described himself as non-matric. But during his evidence he has said that he had been to school for his study upto Class VIII and IX. He then stated that he had not read in any Government school and thereafter stated that private school where he was reading had no name. Leaving aside such funny statement at least it can be taken that the concerned workman had studied in a school. He could have easily produced the school leaving certificate or any certificate of other nature granted by the Head Master or Principal of the school regarding his actual date of birth. Admittedly he never produced such certificate and not even during the pendency of the instant case anything of such nature has been filed, and simply a certificate granted by the Mukhiya (Ext. W-3) has been filed.

When there was no mention of date of birth in Form 'B' Register, when in one Identity Card the date of birth has been mentioned as 27-1-1941 and in another no date of birth was given, rather age was mentioned as 36 years as on 1-1-1977, when there was nothing available on the record on the basis of which those entries in the Identity Cards could have been made and when at no stage during the period of his employment not even at the time of appearing before the Medical Board for age assessment any document was produced or submitted before the management in proof of his age, it was just and proper on the part of the management to refer the concerned workman to Medical Board for ascertainment or assessment of his actual age or date of birth. As per JBCCI instruction also when discrepancies are there in the record with respect to the age of a particular workman and when it is difficult to come to a conclusion or to come to a definite finding in respect of age or date of birth of a particular workman that particular workman is required to be referred to a Medical Board for assessment of age and in that event the finding arrived at by the Medical Board is considered to be final and conclusive. In short, the step taken by the management was correct and in no way the relevant instruction of JBCCI can be said to have been violated in the facts and circumstances of the present case.

8. As noticed above, during arguments it was emphatically urged on behalf of the workman that the concerned workman never appeared before Medical Board and never any finding was arrived at by the said Board in respect of the age of the concerned workman, but interestingly these submissions are quite contrary to what has been pleaded in the written statement or in the rejoinder filed on behalf of the concerned workman or the union. In para 7 of the written statement it has been admitted that the workman appeared before the Board for the assessment of his age. But as per the workman he was compelled to appear before the Medical Board and was never informed about the finding of the Medical Board and it was only when the management issued the service excerpt, he came to know that his date of birth has been mentioned as 24-7-1936. Likewise in the rejoinder filed to the management's written

statement also similar nature of statement has been made and there is no statement that he never appeared before the Board or the Board never assessed his age. The aforesaid submission being made appears to have been based on the testimony of the workman (WW-1) who for the first time during his examination-in-chief stated that he had not faced any Medical Board. During his cross-examination he further stated that the assertion of the sponsoring union that he had attended Medical Board where his age was assessed as 24-7-1936 is not correct and then made further statement that the union which has sponsored his case has wrongly pleaded in his written statement that he had presented himself before the Medical Board where his age was assessed as 24-7-1936. Quite apparently at the stage of evidence the workman came out with a new statement which was not earlier pleaded and put the blame of making wrong statement upon the sponsoring union. In this context it is significant to indicate that it is the sponsoring union which raised the industrial dispute before the A.L.C. (C) by espousing the workman's cause and which pursuant to the reference of the dispute to this Tribunal for adjudication, has been pursuing the present case right from the beginning and has been taking necessary steps from time to time. During entire pendency of this reference at no point of time any objection was raised by the concerned workman by filing any petition etc. that the sponsoring union was not conducting the case in a desirable manner or he has lost faith in the office bearers of the union or the representative of the union who had been conducting the case. Therefore, the aforesaid statements made by the workman during his evidence are devoid of merit and the explanation submitted by him is unacceptable. There does not appear to be any reason why the sponsoring union would have gone against the interest of the concerned workman and would have stated something which was false or incorrect.

It becomes clear from the materials and the stand taken by the management appears to be correct and acceptable that in the year 1986 upon the initiative taken by the management in view of the aforesaid circumstances the concerned workman appeared before the Board for assessment of his age and the Board after examining him assessed his age as 50 years as on 24-7-1986, the date when medical examination was conducted.

The report of the Medical Board (Ext. M-2) appears to have contained not only his L.T.I. rather his signature also with date which on the very face of it tallies with his signature on other documents also, such as, service excerpt (Ext. M-3), Identity card (Ext. W-2), form 'B' Register (Ext. M-1), and also Form 'B' Register of erstwhile colliery produced by the workman and which he did not consider necessary to be marked. During his evidence also the workman though has denied the fact about his appearance before the Medical board but has not specifically denied that the L.T.I. or signature which are there on the said document were not of his own.

From service excerpt (Ext. M-3), it appears that under the column meant for raising objection, if any, the concerned workman simply mentioned his date of birth as 27-1-1941 and he also mentioned his father's name. Admittedly he did not produce any certificate etc. in proof of his age before the management and nothing has been produced in the instant case to show that apart from mentioning his date of birth in service excerpt the concerned workman submitted any separate objection petition also before the management in respect of his age alongwith supporting papers. In the written statement, as noticed, it is mentioned that the concerned workman was compelled to appear before the Medical Board and when assessment of his age was made by the Medical board then he had raised the objection also but nothing has been produced in the instant case to show that any such objection was ever raised before the management. On the contrary, as discussed above, during his evidence the workman denied the said fact altogether regarding his appearance before the Board which was earlier pleaded in the written statement. It is also apparent that the age of the concerned workman was assessed by the Medical Board in the year 1986, service excerpt was issued to him in the year 1987 and then industrial dispute was raised only in the year 1992 before the A.L.C. (C) by the sponsoring union.

9. In support of the argument advanced two decisions have been cited on behalf of the workman, one is reported in 2002 Lab. I. C. 1157 and another is reported in 2002 Lab. I. C. 509. Both are quite distinguishable on facts and do not help the concerned workman as far as the facts and circumstances of the instant case are concerned. In the decision of Hon'ble Andhra Pradesh High Court (2002 L.I.C. 1157) the fact was that the management had altered the date of birth of the concerned workman which was mentioned in service register without giving an opportunity of being heard. The Hon'ble Court held the action to be not valid. In the instant case the position was different as here there was no date of birth mentioned at all in service record or Form 'B' register and so there was no question of making alteration or modification in that. As far as the another case reported in 2002 Lab. I.C. 509 is concerned in the facts of that case also the dates of birth of the concerned employees were duly recorded in the service record at the time of employment, but even then the management called upon those employees to undergo medical examination for verification of their respective ages. The Hon'ble Court took the view that as their date of birth were duly recorded in the service record from before, instead of calling upon the concerned workman to appear before the Medical Board directly the management should have asked them to produce documents in proof of their age and only upon being not satisfied with those documents it should have referred them to Medical Board for assessment of age. It is needless to reiterate that the facts in the instant case are different. In the statutory register (Form 'B') there was no mention of date of birth and despite

having sufficient opportunity the materials in proof of age were never produced before the management and so the only alternative and safe option available with the management was to get the age of the concerned workman ascertained or verified through Medical Board which was accordingly done and in accordance with the findings of the board arrived at in the year 1986 the concerned workman was superannuated in the year 1996.

10. Thus, in view of all the aforesaid considerations and discussions arrived at on the basis of materials on record it is finally concluded that the action of the management cannot be held to be unjustified and the concerned workman does not deserve any relief whatsoever.

11. The award is, thus, rendered as hereunder :—

The action of the management of Sendra Bansjora Colliery of M/s. B.C.C. Ltd., is justified in not accepting the date of birth of the concerned workman as 27-1-1941 and the concerned workman, K.N. Sharma, as such is not entitled to any relief whatsoever.

In the circumstances of the case however, there would be no order as to cost.

S. H. KAZMI, Presiding Officer.

नई दिल्ली, 26 मार्च, 2003

का. आ. 1215.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को.को. लि. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-I, धनबाद के पंचाट (संदर्भ संख्या 228/90) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-3-2003 को प्राप्त हुआ था।

[सं. एल-20012/135/90-आई-आर(सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 26th March, 2003

S.O. 1215.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 228/90) of the Central Government Industrial Tribunal I, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B.C.C.L. and their workman, which was received by the Central Government on 24-03-2003.

[No. L-20012/135/90-IR(C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NO. I, DHANBAD

In the matter of a reference under sec. 10 (1) (d) (2A) of the Industrial Disputes Act, 1947.

Reference No. 228 of 1990

Parties : Employers in relation to the Management of Moonidih Project of M/s. BCCL.

AND

Their Workman

PRESENT : SHRI S. H. KAZMI, Presiding Officer

APPEARANCES :

For the Employers : Shri D.K. Verma,
Advocate

For the workman : Shri S. Bose, Secy.
Bihar Colliery
Kamgar Union.

State : Jharkhand.

Industry : Coal.

Dated, the 7th March, 2003

AWARD

By order No. L-20012(135)/90-I.R. (Coal-I) dated the 26th September, 1990 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Moonidih Project under M/S. BCCL in dismissing Shri Ajit Kumar Singh, Loader, T.No. 7285 from services under dismissal letter No. MND/PO/PA/89/834 dated 14/15-3-89 is justified? If not, to what relief the workman is entitled?"

2. Precisely, the case of the sponsoring union is that the concerned workman, Ajit Kumar Singh, was appointed as miner/loader at Moonidih Area mines under appointed letter dated 14/16-2-87 and thereafter upon being found medically fit by the Area Medical Board he had undergone training also at the training centre. It has been said that the concerned workman was performing his duty with full satisfaction of his Controlling Officer but then all on a sudden a chargesheet dated 25-3-88 was issued to him by the Suptt. of Mines on the allegation that he had given false information regarding his father's name at the time of his appointment. The concerned workman submitted his explanation dated 29-2-88 to the said chargesheet and clarified the position that Guhi Singh is the name of his grand father and the name of his father is Jangbahadur Singh. It was further clarified that the mistake had taken place at the initial stage of employment itself when he was asked the name of his Babuji which as per the local practice Babuji means grand father and father is being called Pitaji. Further, it has been said that the concerned workman had clarified the position as desired by the management and had submitted his family chart also right upto his grand

father. It is said that the management however did not inform the workman as to why his clarification was not accepted and straight away ordered to hold an enquiry against the concerned workman. Thereafter it is said that a perfunctory enquiry was held and then on the basis of the enquiry report the concerned workman was dismissed from his service by the Project Officer, who was not the competent authority to pass any order in that regard. Further, the case is that the concerned workman has not committed any mistake in any manner whatsoever and the mentioning of the name of his grand father in place of his father may at best be an error of intelligence and not a deliberate misconduct and even if the workman did mention the name of this grand father as his father there is nothing wrong in it according to Hindu system of family affiliation. It has also been said that by mentioning his grand father in place of his father the concerned workman has not cheated the management in any manner and the management has also not mentioned in its chargesheet as to what loss it has suffered due to difference of the name of the father and grand father of the concerned workman. There is also no charge against the concerned workman that he has impersonated some one else. It is also said that the workman duly submitted fresh declaration with his photographs duly attested by the Mukhiya as desired by the management. Lastly, it has been said that the action of the management in dismissing the concerned workman from service is arbitrary, illegal and unsustainable and the concerned workman is entitled for reinstatement with full back wages and other consequential benefits.

3. The management's case, on the other hand, in short, is that one Guhi Singh sworn an affidavit on 6-5-86 declaring the concerned workman as his son and proposing for his employment as against his land acquired by the management for mining purpose and thereafter according to his wishes the concerned workman, Ajit Singh was given appointment letter dated 14/16-2-87. It has been said that the concerned workman sworn an affidavit dated 28-3-87 declaring himself as son of Guhi Singh and gave the particulars of his family members.

Guhi Singh again sworn an affidavit on 21-3-87 declaring the concerned workman as his son and giving particulars of his family members.

Further it has been said that later it revealed that that the concerned workman is not the son of Guhi Singh, rather he is the son of Jangbahadur Singh and then it became apparent that he sworn a false affidavit declaring himself as the son of Guhi Singh for the purpose of seeking employment and as such was liable to be removed from his service. A chargesheet was thereafter issued for giving false information under Clause 17(i) (c) of the certified Standing Orders of the company to which the concerned workman replied confessing his guilt and pleaded mistake committed as declared by him as son of Guhi Singh. He took the plea that he is Grand son of Guhi Singh and the son of Jangbahadur Singh. It is said that the mistake was

established on his own admission as the defence plea of mistake could not be accepted taking into consideration large number of documents relating to the present case.

It is also said that during the departmental enquiry the concerned workman participated and he was given full opportunity to defend his case. Subsequent to that the enquiry Officer submitted his enquiry reported dated 10-1-89 holding the concerned workman guilty of the misconduct as levelled against him. The General Manager/Chief Mining Engineer thereafter approved the dismissal of the concerned workman whereafter the Project Officer/Agent of Moonidih Project issued the letter of dismissal to the concerned workman. It has been said lastly that the action of the management in dismissing the concerned workman from his service is legal, bonafied and in accordance with the provisions of Certified Standing Orders of the company and the concerned workman, as such, is not entitled to any relief whatsoever.

In its rejoinder also the management while denying several averments or statements made in the written statement of workman reiterated its stand already taken in its written statement.

Likewise in the rejoinder filed from the said of the workman also several statements made in the management's written statement were denied and emphatically it was reasserted that the management's action in dismissing the concerned workman is absolutely improper and illegal.

4. It is significant to point out at the very outset that during pendency of this reference the issue relating to the fairness of domestic enquiry was taken up as preliminary issue but after the closure of the evidence of the management on the said issue when the workman was called upon to adduce his evidence then at that stage the workman's or union's representative conceded the fairness of the domestic enquiry and accordingly by order dated 24-10-94 the domestic enquiry was held to be fair and proper and then the case was fixed for hearing arguments on merit. In view of such developments, therefore, the only issue that remains for consideration is whether the conclusion for finding arrived at by the Enquiry Officer with respect to the guilt of the concerned workman and the subsequent dismissal of the concerned workman from his service on the basis of those findings can be held to be just, proper and valid or not.

5. It is not in dispute that the concerned workman was provided employment under the land looser scheme of the management as Guhi Singh's land was taken over or acquired by the management for mining purpose and by submitting several documents the concerned workman was declared as the son of the said Guhi Singh. The management is placing reliance on all those documents which were marked exhibits during enquiry and those are affidavit dated 6-5-86 sworn by Guhi Singh before Notary Public, Dhanbad,

attestation form, verification roll, certificate from Mukhiya, Dhobani Gram Panchayat, age certificate granted by a Doctor, one another affidavit dated 21-3-87 sworn by Guhi Singh and one affidavit executed on 28-3-87 by the concerned workman. In all these documents the concerned workman is shown as the son of Guhi Singh. The management is also placing the reliance upon the certificate of Mukhiya of the concerned Gram Panchayat produced by the concerned workman on 13-10-87 wherein the father's name of the concerned workman is mentioned as Jangbahadur Singh. Both in the reply to the chargesheet as also in his evidence during the enquiry the concerned workman has accepted the fact as regards the mentioning of the name of his father in the aforesaid manner in all the aforesaid documents but his consistent stand is that it was just a mistake done at the initial stage and it occurred due to the fault on the part of the concerned Advocate who drafted those affidavits and the persons or authorities who filled up the attestation form at the instance of the workman and issued certificate. According to the workman, when being asked to give the name his 'Baba' he gave the name of his grand father, Guhi Singh, as according to prevailing practice in the society in which the concerned workman used to live, a grand father is being called 'Baba' and father is being called 'Pitaji'. Further, according to the workman, as he is less educated he could not notice the said error or mistake in those documents produced at the time of his appointment and it was not his deliberate intention to dupe or cheat the management either by way of concealing the relevant fact or by providing false information. The concerned workman also says that prior to issuance of the chargesheet he had submitted his attested photograph and relationship certificate granted by the concerned Mukhiya of the concerned Gram Panchayat, as required by the management and the name of his father was clearly mentioned therein as Jangbahadur Singh and so this further shows that there was no any concealment on his part.

On the other hand, on the basis of the aforesaid documents emphatically the assertion from the side of the management is that just for the purpose of seeking the employment the concerned workman declared himself to be the son of Guhi Singh whose land was acquired and it cannot be taken just a mistake committed by an Advocate or anyone else. The contention is that the concerned workman badly cheated the management by giving false information regarding his parentage at the time of his appointment and it is obvious on the very face of over-whelming documents filed by the management during the enquiry, According to the management, since it was a very serious misconduct on the part of the concerned workman very rightly he was held guilty and was punished by way of his dismissal from service and act this stage he is not entitled to any relief whatsoever.

Considering the aforesaid stands taken on behalf of the parties it would be just and proper to find out whether the conduct of the workman in supplying several documents

containing his father's name as Guhi Singh at the time of his appointment can be taken to be bonafide and ignorance of the contents in that regard or just a mistake or the same was something deliberate or intention on his part for seeking employment under the management. Mere mentioned of the name of the father of the concerned workman in the aforesaid manner in the documents produced at the time of appointment will not constitute any misconduct unless it is shown that deliberately by incorrect information in the aforesaid regard was given in order to dupe or cheat the management and with the sole aim to get the employment by any means.

Now I proceed to look into and discuss those relevant aspects or circumstances which emerge out of the materials produced during the enquiry.

6. It is an admitted fact that pursuant to his appointment sometime in the month of February, 1987 the concerned workman was directed to produce six copies of his recent photographs duly certified by the Mukhiya of the concerned Gram Panchayat, Karitand Gram Panchayat alongwith relationship certificate and then in compliance of such direction in the month of October, 1987 the concerned workman produced the certificate and photograph as required and in the said certificate of the Mukhiya the father's name of the concerned workman was clearly mentioned as Jangbahadur Singh. If the concerned workman would have deliberately given the name of his father initially as Guhi Singh for the purpose of seeking employment then he would not have produced a certificate at a later stage wherein his father's name was mentioned in different manner. He would not have exposed himself to the risk or danger by providing such certificate as in that even it could have been reasonably expected that he would be sacked from his services on the charge of providing false information. Had there been any bad intention on his part he could have easily procured a certificate or would have got it manufactured so as to make it in conformity with the earlier document but it was not done by him and so definitely this is a circumstance which cannot be over-looked.

7. When the chargesheet was issued against the concerned workman he submitted his reply and in the said reply he clearly took the stand and accepted that in the affidavits or documents filed earlier by mistake his father's name has been mentioned as Guhi Singh whereas the fact is that the said Guhi Singh was his grand father. He has further stated that due to fault or mistake on the part of those who drafted those documents the name of his father was incorrectly mentioned in those documents. About himself he has said that he is less educated or not so literate and can put down anyhow his signature only. He mentioned therein about the contents of the certificate granted by the Mukhiya also subsequently. During the enquiry also he took the same stand and put forward his bonafide conduct. He further clarified that it was never his intention to give a

false information or to cheat the management in any way. It is thus clear that not only in his reply, rather at the very inception of the enquiry itself he accepted the incorrect mentioning of the name of his father in those documents and called the same as a mistake or error committed at the instance of or from the side of those who prepared those documents. He thereafter did not produce any witness during the enquiry and by showing his bonafide sought relief from the management.

8. It is not the case of the management that a grand son of a land looser cannot be treated to be a dependent of a land looser and as such cannot be provided with the employment under the said scheme. It is not its case that had the concerned workman being the grand son of the said Guhi Singh shown earlier he would not have been provided employment. In this context further it is relevant to indicate that during cross-examination of the management's representative during the enquiry a specific question was asked from him whether being the grand son of Guhi Singh the concerned workman would have been provided with employment by the management or not to which he replied that under the scheme the grand son of Guhi Singh would have been provided the employment. So the management's representative made it more than clear that there was no any hurdle and as per the scheme the employment could have been provided to even the grand son of the land looser also. In view of such circumstances it is different to gather any oblique motive on the part of the concerned workman. Why he would have gone to the extent of concealing or giving incorrect name of his father at the time of his appointment when being the grand son also of said Ghui Singh he could have easily got the employment. The matter would have been different if as per the scheme only a son was to be provided with the employment and not the grand son.

9. It is not the case of the management that the concerned workman, in fact, it was stranger or in no way related to the family of Guhi Singh or Guhi Singh was not the grand father of the concerned workman. Admittedly, under the said scheme the employment is to be provided to the land looser or one of his dependent and it has already been discussed above that it is not the case of the management that a grand son cannot be taken to be a dependent of a land looser under the said scheme. At the time when the process of appointment was on and several documents were produced in support of the claim of the concerned workman the management could have made the enquiry either before making appointment or soon thereafter to ascertain the facts as mentioned in those documents but admittedly it was never done and only after a long time when the concerned workman produced the certificates and photographs as required it was realised by the management that incorrect information was furnished earlier in regard to the parentage of the concerned workman.

10. One another relevant aspect which cannot be lost sight of is that never or at no point of time the said Guhi

Singh whose land was admittedly acquired or taken over by the management came forward raising any objection whatsoever or challenging the claim of the concerned workman. He never appeared before the management physically nor he ever sent any communication to the management disowning the concerned workman or stating that he in fact, is not his grand son. No any complaint was received in the said regard by the management from others also. This is also one of the strong circumstances to suggest that the concerned workman is none else but the grand son of Guhi Singh, the land looser.

11. Thus, taking into account all the aforesaid relevant aspects or circumstances as indicated above, it can well be gathered that there was no deliberate conduct on the part of the workman to dupe or cheat the management as alleged or deliberately the concerned workman did not furnish incorrect information in the aforesaid regard at the time of his appointment for the purpose of seeking employment. Therefore, the finding arrived at in the enquiry report in regard to the deliberately furnishing of false information by the concerned workman regarding the name of his father at the time of his appointment cannot be sustained in view of the materials on record.

12. Despite the aforesaid, the fact remains that a wrong or incorrect information was furnished before the management in regard to the father's name of the concerned workman as contained in the aforesaid documents though unintentionally or not deliberately, the concerned workman cannot get away merely by asserting that earlier he was not aware of the contents made in that regard. Even accepting for the moment that he was less educated or could have put down his signature only even then it was reasonably expected of him to get those documents prepared by others, read over and explained to him before submitting the same before the management or before putting down his signature thereon. Due to such causal or careless conduct on his part not only he suffered a lot, rather he embarrassed and unnecessary put the management also to a lot of inconvenience and a good amount of time of the management was spent in the entire process. For such a lapse or undesirable conduct on his part the concerned workman cannot be allowed to get away so easily and certainly to a reasonable extent he has to bear the consequence for those conduct or lapses.

Thus, in view of all the aforesaid it is finally concluded that the dismissal of the concerned workman from his services is not sustainable considering the materials on record and the concerned workman, as such, deserves reinstatement but without back wages and without continuity of service.

13. The award is, thus, rendered as hereunder: The action of the management of Moonidih Project under M/s. B.C.C. Ltd. in dismissing the concerned workman, Ajit Kumar Singh, Loader, is not justified and the concerned workman deserves reinstatement but without back wages and without

continuity of service. Consequently the management is hereby directed to reinstate the concerned workman accordingly within 30 days from the date of publication of the award.

In the circumstances of the case, however, there would be no order as to cost.

S. H. KAZMI, Presiding Officer

नई दिल्ली, 26 मार्च, 2003

का. आ. 1216.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को.को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- II धनबाद के पंचाट (संदर्भ संख्या 80/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-3-2003 को प्राप्त हुआ था।

[सं. एल-20012/244/95-आई-आर(सी-1)]

एस. एस. गुप्ता, अवसर सचिव

New Delhi, the 26th March, 2003

S.O. 1216.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 80/96) of the Central Government Industrial Tribunal-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B.C.C.L. and their workman, which was received by the Central Government on 24-03-2003.

[No. L-20012/244/95-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) DHANBAD

In the matter of a reference under Section 10 (1) (d) of the Industrial Disputes Act, 1947.

Reference No. 80 of 1996

Parties : Employers in relation to the Management of Dhori Colliery of M/s. C.C. L. and their workmen.

APPEARANCES :

On behalf of the workman : Shri B. B. Pandey,
Advocate.

On behalf of the employers : Shri D. K. Verma, Advocate
State : Jharkhand. Industry : Coal.

Dated, Dhanbad, the 28th February, 2003

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1) (d) of

the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/244/95-IR (Coal-I), dated the 20th/21st August, 1996.

SCHEDULE

"Whether the action of management of Dhori Colliery of M/s. C.C.L., Bokaro in superannuating Shri Sarju Turi w.e.f. 3-4-1994 is justified? If not, to what relief is the said workman entitled?"

2. The case of the concerned workman according to W.S. submitted by the sponsoring union on his behalf in brief is as follows:—

They submitted that the concerned workman was a permanent employee under the management as piece rated worker. They disclosed that the date of birth of the concerned workman was recorded not only in the Form B Register which is considered as statutory Register under the Mines Act as 3-4-1946. But also in officer registers maintained by the management and also in the C.M.P.F. register the same date of birth was recorded. They alleged that the management arbitrarily and illegally without giving any scope to the concerned workman to get his retirement on superannuation on attaining the age of 60 years terminated him from service on 3-4-94. Accordingly, they submitted representation to the management in this regard but as the management did not pay any heed to the said representation they raised an industrial dispute which ultimately resulted reference to this Tribunal for award. Accordingly the sponsoring union submitted prayer for reinstating the concerned workman to his service with full back wages.

3. Management on the contrary after filing W.S.-cum-rejoinder have denied all the claims and allegations which the sponsoring Union asserted in their W.S. They submitted that in the year 1987 service excerpt was issue to the concerned workman disclosing his date of joining in the service as 19-11-71 and date of birth as 3-4-34. They submitted that the concerned workman accepting the date of birth recorded in the service excerpt returned back the same accepting all the particulars mentioned therein after putting his L.T.I. They further submitted that the date of birth disclosed in the service excerpts was taken from the Form B register. Accordingly he was issued with superannuation notice much before his date of retirement. They further disclosed that the concerned workman never raised any dispute for correction of his date of birth so long he was in service. He raised this dispute after his superannuation and for which his claim is not maintainable in the eye of law. They, in view of the facts and circumstances stated above submitted prayer for passing award rejecting the claim of the concerned workman.

4. The points to be decided in this reference are :—

"Whether the action of the management of Dhori Colliery of M/s. C.C.L., Bokaro in superannuating Shri Sarju Turi w.e.f. 3-4-1994 is justified? If not, to what relief is the said workman entitled?"

DECISION WITH REASONS

5. It is seen from there record that to substantiate the claim and counter claim both the sponsoring union and the management have examined one witness each. Considering the facts disclosed in the pleadings and also considering the evidence on record I find no dispute to hold that the concerned workman was a permanent piece rated worker at Dhori colliery. It is the specific contention of the sponsoring union that at the time of entry in the service, date of birth of the concerned workman in the statutory Form B Register was recorded as 3-4-1946. They disclosed that not only in the Form B Register but also in other register maintained by the management and also in the C.M.P.F. register the same date of birth was recorded. They alleged that in spite of knowing all these facts management illegally and arbitrarily superannuated him from his service with effect from 3-4-1994.

6. On the contrary from the submission of the management I find a quite different picture. They disclosed that in the Form register date of birth of the concerned workman was recorded as 3-4-94. Accordingly, in the year 1987 service excerpts was given to the concerned workman showing therein his date of appointment and date of birth as 19-11-71 and 3-4-34 respectively. The concerned workman after making necessary declaration and also after putting his L.T.I. therein returned back the same to them. Not only at that time but also thereafter, so long he was in service he did not raise any objection relating to his date of birth recorded as 3-4-94. He raised this dispute only after his retirement from service.

7. Considering the submission of both sides it is clear that when the sponsoring union has claimed 3-4-1946 as date of birth of the concerned workman management claimed 3-4-94 as his date of birth. Considering the submission of both sides it transpires that the date and month of the birth of the concerned workman though tallies the year of birth differs. Therefore, it is to be considered if year of birth of the concerned workman was 1946 or 1934.

8. The concerned workman in course of his evidence in chief admitted categorically that he was born in the year 1946 and his date of birth was duly recorded in the company's record. He further submitted that neither he himself nor his union raised any dispute against his order of superannuation. It is curious to note that during his evidence in chief when he claimed that his date of birth was 1946 during his cross-examination he claimed that his date of birth was 3-4-34. This shows clearly that he made contradictory statement in relation to his date of birth. The concerned workman in course of hearing of the instant case has failed to produce a single scrap of paper to show that his date of birth was 3-4-46 and not as 3-4-34. On the contrary MW-1 during his evidence disclosed that service particulars of the workman is recorded in two ways i.e. one in the Form

B Register and the other in the service sheet. The service sheet of the concerned workman maintained by the management in official capacity in course of evidence of MW-1 was marked as Ext. M-1. From the service sheet it transpires that the concerned workman was appointed by the management on 19-11-71 and his date of birth at that time was recorded as 3-4-34. It is the contention of the management that in the year 1987 service excerpt was handed over to the concerned workman for his comments in respect of the particulars recorded therein including date of birth. The concerned workman returned back the service excerpts after putting his L.T.I. without raising any objection relating to the entries therein including the date of birth as 3-4-34. The service excerpt bearing L.T.I. of the concerned workman which he returned back to the management during evidence of MW-1 was marked as Ext. M.2. MW-1 during his evidence disclosed that it was not possible for the management to produce the original Form B Register as it was seized by C.B.I. in connection with a case. The explanation given by MW-1 appears to be cogent. Accordingly, relying on the documents marked as Ext. M1 and M2 it is to be considered if the claim of the concerned workman stands on cogent footing. It is the specific claim of the concerned workman that his date of birth is 3-4-46 and not 3-4-34. In course of hearing the concerned workman has failed to produce a single scrap of paper in support of his claim. As onus lies on him to establish his claim he cannot avoid his responsibility to establish the same. It is seen that the service excerpt was given to the concerned workman in the year 1987 wherein his date of birth was recorded as 3-4-34. Concerned workman after putting his L.T.I. returned back the same to the management and at that time he did not raise any dispute in relation to his date of birth recorded in the service excerpt. No evidence is forthcoming on the part of the workman challenging his L.T.I. appearing in the said excerpt. As no contrary evidence is forthcoming there is sufficient reason to believe that the L.T.I. appearing in the service excerpts Ext. M-2 is the L.T.I. of the concerned workman. It is the specific contention of the management that so long the concerned workman was in service he did not raise any dispute over his date of birth. He raised this dispute after his superannuation from his service. It is seen that the concerned workman got his retirement in the year 1994 i.e. seven years after receipt of the services excerpt. No satisfactory explanation is forthcoming on the part of the concerned workman to show why he did not raise such dispute when he was very much in his service. The concerned workman also has failed to give any satisfactory explanation for causing such long delay in raising the dispute in question.

9. On careful consideration of all the facts and circumstances I find no hesitation to say that burden was on the workman to establish that his date of birth was 3-4-1946 and management has wrongly recorded his date of birth as 3-4-34. It is seen that the workman has lamentably

failed to establish his claim. I do not find any reason to say that the management with some ulterior motive manufacturing the official record had wrongly recorded his date of birth therein particularly when it is not evident that they grew up any bitter relation with him.

10. In view of the facts and circumstances discussed above I hold that the workman has lamentably failed to establish that the management illegally and arbitrarily superannuated him from his service prior to his actual date of retirement. Accordingly, I find no just and proper ground to uphold the contention of the workman and for which he is not entitled to get any relief according to his prayer.

In the result, the following Award is rendered :—

“The action of the management of Dhorri Colliery of M/s. CCL, Bokaro in superannuating Shri Sarju Turi w.e.f. 3-4-1994 is justified. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 26 मार्च, 2003

का. आ. 1217.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईस्टर्न रेलवे के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. I धनबाद के पंचाट (संदर्भ संख्या कम्प. 1 ऑफ 2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-3-2003 को प्राप्त हुआ था।

[सं. एल-41014/01/2003-आई-आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 26th March, 2003

S.O. 1217.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (complaint No. 1 of 2002) of the Central Government Industrial Tribunal, No. I, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Eastern Railway and their workman, which was received by the Central Government on 25-03-2003.

[No. L-41014/01/2003-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1) DHANBAD

In the matter of Complaint u/s. 33A of the Industrial Disputes Act, 1947.

Complaint No. 1 of 2002

(Arising out of Reference No. 5 of 2001)

Sri Raghunandan Ray,
Working President,
Bihar Mines Lal Jhanda
Union at & P.O. Bhowra,
Dist.—Dhanbad.

..... Complainants.

V/s.

1. The Divisional Railway Manager,
Eastern Railway, Mugalsarai.

2. The Ministry of Railway,
Rail Bhavan, Estt, LL,
New Delhi-110001

Opp. Parties

Present : Shri S.H. Kazmi,
Presiding Officer.

APPEARANCES:

For the Complainant : Shri S.N. Goswami, Advocate

For the opp. Party : Shri B.M. Prasad, Advocate

Dated, the 18th March, 2003

AWARD

Being aggrieved by the action of the opp. Party management and alleging the contravention of the provisions of Section 33 of the Industrial Disputes Act, 1947 on its part, the present complaint case has been filed on behalf of the concerned workman by the Working President of the sponsoring union under Section 33A of the I.D. Act.

2. The case of the complainant, in short, is that all the concerned workmen have been working with the Railway management of the Pathar Mines at Karwandia within the District of Rohtas for a long period ranging from ten to twelve years and they were engaged as skilled, semi-skilled and un-skilled labourers and were discharging their duties for 8 hours and had put in more than 240 days attendance in each year. It has been said that the nature of their works was perennial and permanent and not seasonal. Further it has been said that the sponsoring union raised the industrial dispute for their regularisation and proper pay scale and the same has been referred for adjudication before this Tribunal and now it is being registered as Reference No. 5 of 2001. It is said that during the pendency of the Proceeding the opp. Party has stopped the works of the petitioners and as such has changed the condition of service in order to deprive the concerned workmen of their rightful claim. It is further said that the opp. Party as such, has contravened the provisions of section 33 of the Act before this Tribunal. Prayer has been made for passing necessary order by directing the opp. Party not to change the service condition and maintain the status-quo during the pendency of the aforesaid reference before this Tribunal.

3. On the other hand, the case of the opp. Party in short, is that the concerned workmen are not the workers of the Railway and they are contractor's labourers engaged by M/s. R.B. Traders and the Railway have nothing to do as far as their engagements, are concerned. Further it has been said that the District Forest Officer, Sasaram sent a letter dated 22-3-2001 to the Railway Administration to stop quarry activities in Karwandia quarry as the same had since been declared protected forest. It is further said that utmost efforts were made by the Railways Administration to settle the matter with DFO, Sasaram and higher officials of Forest Department at Patna but no fruitful result towards running of the said quarry could be achieved as yet. It is also said that lastly the quarry was raided and work stopped forcibly at Karwandia mine by DFO, Sasaram and in that view the Railway Administration was left with no alternative but to suspend the agreement with M/S. R.B. Traders for supply of ballast. It has been said that it is wrong to say that the Railways stopped the work with some wrong intention, rather the fact is that the same was absolutely beyond the control of the Railway. It has also been said that the quarry work has been stopped by DFO, Sasaram on declaration of the area as protected forest and the Railway is left with no other alternative but to adhere to the order of the civil authority to avoid involvement of Railway authority including the contractor with their labours in criminal offence.

4. In their respective rejoinders also both the sides reiterated their stands already taken in their applications or reply while controverting or denying several statements.

5. In support of their respective claims no oral evidence has been adduced. On admission few documents have been exhibited on their behalf by waiving formal proof. The documents on behalf of the applicants are marked Exts. W-1 to W-3 and one document filed on behalf of the management is marked Ext. M-1.

6. As it is evident the present case has arisen out of Reference No.5 of 2001 in which parties are same and in which as per the terms of reference adjudication is required to be made—

“Whether S/Shri Basudeo Paswan and 76 others workmen (as detailed at Annexure-A enclosed) can claim themselves as the workmen of Divisional Railway Manager, Eastern Railway, Mughalsarai if they are workmen of D.R.M Eastern Railway, Mughalsarai. If they are workmen of DRM. E. Railway, Mughalsarai whether the action of the management for not regularising their services was justified? If not to what relief the workmen are entitled?”

The applicants or the workmen's assertion in the instant case is that during the pendency of the said reference

case the opp. Party or management has stopped the work of the workmen concerned and in order to frustrate the lawful claim of the concerned workmen as raised in the said reference, has changed the condition of service without the approval or permission of this Tribunal and thereby has contravened the provision of Section 33 of the I.D. Act.

The management, apart from challenging the claim of the workmen regarding their regularisation and mentioning them just as contractors' workmen, has come out with the case that DFO, Sasaram sent the letter to the Railway Administration to stop quarry activities in Karwandia quarry as the same has since been declared as protected forest. Efforts were made to settle the matter but without any result and lastly the quarry was raided by the said Forest authority and the work was forcibly stopped. The aforesaid DFO's letter is marked Ext. M-1 which incidentally has been exhibited from the side of the applicant also and is marked Ext. W-3. From the contents of the letter it appears that the Railway authorities were reminded about a Notification and Hon'ble Supreme Court's direction and were requested to make compliance and stop the mining operation over the land of several plot numbers described as forest land. Subsequent to the receipt of this letter what developments took place and what actions were taken from the side of the Railway Administration, nothing has been produced to show that simply in the written statement filed, the statement has been made, as seen above, that after DFO's letter quarry activities or mining operation was closed and further there is mention about the effort being made by the Railway Administration to settle the dispute also in the said regard with DFO and higher officials of Forest Department. No any date of closure of mining operation is mentioned nor it is mentioned as to what had been the final outcome of the efforts made in the aforesaid regard. Making efforts quite obviously means that the Railway Administration was contesting the said matter and was making all efforts to resolve the dispute amicably. In the written statement filed in the said reference case also the opp. Party has asserted its exclusive right and claim over the mine or quarry in question.

Further, if it is accepted that the concerned mine or quarry is no more in operation and for that reason the workers working have been relieved then there is also no reply or answer forthcoming from the side of the opp. Party as to why prior to closure of the mine and stoppage of work of the concerned workmen or relieving them from their engagement as workers working in the mine irrespective of their nature of claim or the nature of engagement. As per the case of the management, it was not considered necessary by the opp. Party or the management to seek the approval or permission from the Tribunal where the said reference case was pending from before for final adjudication. Technically speaking, as such, there is a clear cut violation or contravention of Sec. 33 of the I. D. Act at the hands of the opp. Party-management. As a consequence of such

violation, the question is what relief can be extended to the applicants in the instant case.

Though the opp. Party management has not come forward with the materials to show the subsequent development, but from Exts M-1 or W-3 it is apparent that the Forest Department was seriously pursuing the matter and with the help of a Notification declaring the land or mine in question to be the Forest land it was exerting pressure upon the Railway authorities to stop forthwith the mining or quarry operation. In such circumstances, when the position is not very much clear and the applicants have also not produced anything to show that the mining operation is still going on despite the said letter of DFO, it is not possible to pass necessary order regarding reinstatement of the concerned workmen or for the restoration of the position that existed earlier in respect of the working of the concerned workmen.

As it has been informed, the said reference case is presently at the evidence stage and so most likely the same would not take much time in its final disposal. Thus, taking into account the entire facts and circumstances borne out of the materials on record I am of the view that it would be just and appropriate if at the time of final disposal of the said reference case itself the consideration is made as to what consequential relief as a result of violation or contravention of Sec.33 of the I.D. Act. as found above, can be granted to the concerned workmen or the applicants. It is needless to observe that any such consideration would depend on the final conclusion arrived at in the said reference case with respect to the claim of the concerned workmen.

This case, as such, stands finally disposed of with aforesaid observations.

S.H. KAZMI, Presiding Officer.

नई दिल्ली, 26 मार्च, 2003

का. आ. 1218.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कर्नाटक बैंक लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम-लेबर कोर्ट, बंगलौर के पंचाट (संदर्भ संख्या सी. आर. नं. 19/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-3-2003 को प्राप्त हुआ था।

[सं. एल-12012/181/97-आई. आर. (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 26th March, 2003

S.O. 1218.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (C.R. No. 19/1998) of the Central Government Industrial Tribunal/Labour Court, Bangalore, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Karnataka Bank Limited and their workman,

which was received by the Central Government on 25-03-2003.

[No. L-12012/181/97-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT "SHRAM SADAN", III MAIN, III CROSS, II PHASE, TUMKUR ROAD, YESHWANTHPUR, BANGALORE

Dated the 4th March, 2003

PRESENT:

Hon'ble Shri V. N. KULKARNI, B.Com, LLB, Presiding Officer, CGIT-cum-Labour Court, Bangalore

C.R. No. 19/1998

I Party

Shri Byralinge Gowda,
S/o. Late Thimmaiah,
No. 11, Byrava Nilaya,
Pipe Line III Cross,
Srinagar,
Bangalore-560 050.

II Party

The Chairman,
Karnataka Bank Limited,
Head Office,
Kodialbail,
Mangalore-575 003.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (2A) of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/181/97-IR(B-1) dated 4-3-1998 for adjudication on the following schedule:

SCHEDULE

"Whether the action of the management of Karnataka Bank Ltd. is justified in dismissing Shri Byralinge Gowda from service w.e.f. 15th February, 1996? If not, to what relief the workman is entitled?"

2. The first party was working with the management. He committed misconduct therefore, charge sheet was issued and enquiry was held against him. On the basis of the Enquiry Report he was dismissed and therefore, this Industrial Dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party in brief is as under:—

5. It is the case of the workman that he was a permanent employee of the management. He was illegally dismissed from service. He was working as Attender at Minarva Circle Branch. Charge sheet is given but the same is not correct. He has not committed any misconduct. Enquiry is not fair and proper. Rule 19.5(j) of the Bipartite Settlement has not been complied while holding the enquiry. The dismissal order is bad in law. It is also says that he has more than 23 years of continuous service with excellent records. He is facing financial difficulties. Workman for these reasons and for some other reasons has prayed to pass award in his favour.

6. The case of the management in brief is as under :

7. Charge sheet given is correct. Regarding Enquiry it is said that the same is fair and proper. Full opportunity was given to the workman. All the allegations made by the workman are not correct. Charges are proved. The findings of the Enquiry Officer is correct. Management for these reasons and for some other reasons has prayed to reject the reference.

8. It is seen from the records that Writ Petition No. 27568/1999 was filed by the workman. The High Court remanded the matter with a direction to answer Preliminary issue regarding fairness of Domestic Enquiry.

9. It is seen from the records that after the remand management examined MW1. His evidence is that he has conducted the enquiry against the first party. He has given detailed evidence. It is also said that full opportunity was given to the workman. Workman fully participated in the enquiry. Arguments of both sides were submitted.

10. Against this the workman has not adduced any evidence. Arguments of both sides were heard.

11. It is seen from the records that this Tribunal by its order dated 16th January, 2003 has held that the Domestic Enquiry is Fair and Proper. Thereafter the matter was posted for arguments on merit. I Have carefully perused all the records and enquiry file.

12. Now that the enquiry is held as fair and proper this Tribunal has little Discretion to interfere with the punishment imposed by the management. The charge is that the workman while on duty has removed Rs. 40,000/- from the bundle given to him for stitching by the management.

13. I have perused the report given by the Enquiry Officer. The Enquiry Officer has considered the entire material and evidence adduced by the management and the documents carefully and has come to the right conclusion. Certain amount was also replaced by the workman. The only contention of the learned counsel appearing for the workman that Jewel Appraiser was not examined during enquiry. According to the facts of case adduced is that the workman wanted to purchase gold etc.

14. I have read the entire evidence before the Enquiry Officer. Charges are proved. It is clear that with the Enquiry Officer recorded the evidence and said that the entrustment is admitted and proved. There is nothing on record to say that the findings given by the Enquiry Officer is perverse.

15. The learned counsel appearing for the workman has not pointed out any thing so as to say that the findings is perverse. If the findings is not perverse by now it is well settled that this Tribunal has little discretion to interfere with the punishment imposed by the management. The

Enquiry Officer has answered all the contentions raised by the workman by discussing the evidence.

16. Taking all this into consideration, I am of the opinion that this is not a fit case to invoke the provisions of Section 11A of the ID Act. Accordingly I proceed to pass the following Order :

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 4th March, 2003)

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 26 मार्च, 2003

का. आ. 1219.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोसी क्षेत्रीय ग्रामीण बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 1, धनबाद के पंचाट (संदर्भ संख्या 85 ऑफ 1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-3-2003 को प्राप्त हुआ था।

[सं. एल-12012/249/92-आई. आर. (बी.-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 26th March, 2003

S.O. 1219.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 85 of 1993) of the Central Government Industrial Tribunal No. 1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kosi Kshetriya Gramin Bank and their workman, which was received by the Central Government on 25-3-2003.

[No. L-12012/249/92-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 85 of 1993

PARTIES:

Employers in relation to the management of Kosi Kshetriya Gramin Bank.

AND

Their Workmen.

PRESENT:

Shri S.H. KAZMI, Presiding Officer

APPEARANCES:

For the Employers : Shri S. Paul, Advocate.

For the Workmen : Shri S. N. Goswami,
Advocate

State : Bihar. Industry : Banking.

Dated, the 17th March, 2003

AWARD

By Order No. L-12012/249/92-I.R. (B-1), dated, 7-4-1993 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal.

“Whether the action of the management of Kosi Kshetriya Gramin Bank in terminating the services of Shri Nevi Das w.e.f. 22-10-1991 is legal and justified? If not what relief the workman is entitled to and from which date?”.

2. The case of the concerned workman, in short, is that he joined the service in Kosi Kshetriya Gramin Bank at Ekamba Branch within the district of Purnea (Bihar) on 4-9-89 as Messenger-cum-Sweeper-cum-Waterboy on daily rate basis of Rs. 10 per day for full day's work from 10 A.M. to 5.30 P.M. It has been said that the concerned workman was paid wages @ Rs. 10 per day upto 28-2-1991 and thereafter from March, 1991 to 21-10-1991 the payment was made through salary sheet as per circular of Head Office. Further it has been said that the concerned workman continued to serve in the said branch of the Bank till his services were dispensed with on 22-10-1991 and till then he had put in a total of 388 days of service in the said Bank. In the year 1989, it is said, that the concerned workman put in the attendance of 115 days, in the year 1990 34 days and in the year 1991 239 days as on 21-10-1991. It is said that on 22-10-1991 also he had discharged his duty but was not allowed to mark attendance otherwise his services would have been for complete 240 days. With effect from 22-10-91 the management terminated his services just to create artificial breaks to avoid 240 days of continuous service in one year and to frustrate his attaining right under Chapter VA of I.D. Act. Further, the case is that the management terminated the services of the workman w.e.f. the aforesaid date orally without assigning any reason and without any notice, notice pay and retrenchment compensation. It is said that the concerned workman is a member of scheduled caste community and is a matriculate and during the period of his engagement in the Bank he was also a member of contributory provident fund and deduction was made from his salary from March, 1991. It is further said that the Bank management after terminating the services of the workman

simultaneously appointed fresh hand, namely, Rabindra Prasad Sah in his place and further appointed few fresh hands also without offering opportunities to the concerned workman for his re-employment. It is also said that after termination of his services the workman approached before the management time without number and also made representation on 6-12-1991 duly recommended by the Branch Manager of the Bank, but the management failed to concede the demand of the workman for reinstatement and then ultimately industrial dispute was raised before the A.L.C. (C), Patna on 3-6-92 where no settlement could be brought about due to uncompromising attitude of the Bank management. The conciliation proceeding, therefore, failed and ultimately this dispute was referred to this Tribunal for adjudication. Further, it is said that the termination of the services of the workman on 22-10-1991 is a retrenchment within the meaning of Sec. 2 (oo) of the I.D. Act and the management did not follow the mandatory provisions of Sec. 25F and 25H of the said Act and further violated the Rules 77 and 78 of the Industrial Disputes (Central) Rules, 1957. Lastly, it is said that the concerned workman is entitled to be reinstated with full back wages.

3. The case of the management, as disclosed in its written statement, in short, is that the concerned workman was never the workman of the concerned Bank, rather simply he was engaged on prorata basis at the rate of Rs. 10 for three hours work per day casually for some days between 4-9-1989 to 3-2-1990. As such, further it is said that the question of termination of service of the concerned workman does not arise and the concerned workman himself stopped attending his duties w.e.f. 4-2-1990 as there was no work. It has been said that again after a long gap on 25-2-1991 the concerned workman was engaged on prorata basis of Rs. 10 for three hours work per day.

By way of rejoinder to the workman's written statement also it has been said that the concerned workman was never the workman in Ekamba branch or any other branch of the Bank and he was never engaged for full days's work and was never given any post or designation like messenger-cum-sweeper-cum-waterboy. It is also said that the concerned workman was not paid through salary sheet and there was no circular of the Head Office. While denying several other statements made in the written statement of the workman further it has been said that the concerned workman never worked continuously, rather he worked intermittently in broken spell as and when required casually and he as such never worked for more than three hours in a day and further as he was never paid any salary there was no question of provident fund deduction from salary. Lastly, it has been said that the claim of the concerned workman is an afterthought and is absolutely unjustified.

4. It view of the stands taken on behalf of both the sides, as noticed above, the moot question which appears to be involved that requires consideration is whether the

concerned workman can be taken to have been retrenched from service or not after working for a long time or after putting in attendance of 240 days in one calendar year.

5. In support of their respective stands both the sides have led their oral as well as documentary evidence. Two witnesses were examined on behalf of the management and likewise two witnesses were examined from the side of the workman also. The documents which have been filed on behalf of the management are marked Exts. M-1 to M-3 and those which have been filed from the side of the workman are marked Exts. W-1 to W-3. The significance and relevancy of those materials produced would be considered in course of the discussions made hereinafter.

6. It is not in dispute that the concerned workman was engaged in the said branch of the concerned Bank on 4-9-1989 on daily rate basis at the rate of Rs. 10 per day. The dispute is with respect to the nature of work performed by the concerned workman, total period of his engagement in the Bank since inception, payment of 50% salary to him from March, 1991 onwards and the manner in which he was disengaged in the month of October, 1991.

It stands admitted that the concerned workman was engaged from 4-9-1989 to 3-2-1990 and then from 25-2-1991 to 21-10-91.

According to the management, he did not work regularly or continuously, rather he used to be engaged intermittently at the rate of Rs. 10/- per day for only 3 to 4 hours work per day. Further as per the management the concerned workman was never paid any salary on the basis of any circular and he never completed 240 days of working in one calendar year and so there was no any question of retrenchment or termination, rather the fact is that the concerned workman himself stopped working after 22-10-91 as there was no work.

On the other hand, the workman's assertion is that during the period of his engagement he worked continuously as Messenger-cum-Sweeper-cum-Waterboy and discharged duties for the whole day and not just for few hours. His further assertion is that initially he was paid on daily rate basis but then from March, 1991 he was paid 50% emoluments which are admissible to a regular workman working in the said post in the Bank and he went on getting the same till the date of his dis-engagement. Further the contention is that in the year preceding his dis-engagement he had already completed 240 days of regular working as not till 21-10-1991 only rather on 22-10-1991 also he had discharged his duty but was not allowed to mark his attendances.

In his evidence as WW-1 also the concerned workman has clearly stated that he worked in the concerned Bank from 4-9-1989 to 3-2-1990 and again from 25-2-91 to 22-10-91 and was doing the duty from 10 A.M. to 5 P.M. in the said Bank. According to him, he used to sweep the Bank

premises, supply water and carry registers from one table to other and he also used to visit headquarters once and in a week to bring stationary materials. He stated that he used to receive wages once in a week on voucher from 4-2-1989 to 3-2-1990 and thereafter he was getting wages by salary register, which according to him, contains the wages paid to him. In his cross-examination he denied several suggestions put from the side of the management.

WW-2—Dilip Kumar Prasad has supported the statements made by the concerned workman and stated that the concerned workman joined the said Bank in the year 1989 and worked till October, 1991. He has stated about the payment of wages initially at the rate of Rs. 10/- per day and then 50% of salary. According to him, in the year 1987 one circular of the Bank came into existence based on recommendation of NABARD wherein it was provided that 50% of basic and D.A. of those engaged in State Government service working as Peon would be admissible. He has proved the said circular dated 4-7-87 which is marked Ext. W-3. He has further stated that in the said branch of the Bank there was no one else working as messenger-cum-peon besides the concerned workman. He has also said that apart from discharging his duties within the premises of the Bank the concerned workman used to be sent outside the Bank also for bringing stationery and for dropping the mails in the Post Office and also to bring the mail of that day from the Post Office. Further he has stated about the provident fund deduction from the salary of the concerned workman and about the fact that after dis-engagement of the concerned workman one Rabindra Prasad Sah was engaged in his place.

On the other hand, upon relevant aspect involved, the management's witness MW-1 has said that the concerned workman was a casual worker and was being paid Rs. 10/- per day for 2 to 3 hours work. He has also said that he was not holding any specific post but his job was to clean the Bank premises and to supply drinking water and he never worked for 240 days in one calendar year. However, during the cross-examination he has made it clear that since he was not posted in the concerned branch, he was not in a position to say if other work also was being taken from the concerned workman. He has also said that the concerned workman was being paid on cash debit voucher and then has said that he has gone through those vouchers but cannot say from which dates to which date the concerned workman worked. He further stated that the services of the concerned workman are not terminated, rather he had left the work on his own. This witness quite evidently had no concern with the said branch of the Bank as admittedly he was not posted there during the relevant period. However he has stated about the nature of work being performed by the concerned workman also. As noticed above, he had said that the job of the concerned workman was to clean the Bank premises, to supply drinking water during the relevant period of his engagement. In this regard he has further made it clear that since he was not posted there he was not in a

position to say if any other work was also being taken from him. So as far as his evidence is concerned the concerned workman cannot be taken to have performed the job of sweeper-cum-waterboy only. While referring to a circular of the Bank he has also clearly stated that it is a condition in the said circular that if any person has worked for more than 240 days in a calendar year he shall be regularised. He has also stated about the voucher through which payment was made but no any such vouchers have been produced from the side of the management and it is also significant to be noticed that though this witness has stated about the nature of work, but the management in its written statement has chosen to remain silent on that aspect. It is not disclosed anywhere as to what were those works which were taken from the concerned workman during the period of his engagement. Simply the denial has been made in the rejoinder to the statement of the concerned workman in the said regard.

The management's another witness (MW-2) has stated about the engagement of the concerned workman occasionally in the said branch of the Bank for sweeping the bank premises in case of necessity and about the payment at the rate of Rs. 10/- per day for three hours work. However, he has accepted the fact regarding the engagement of the concerned workman during the relevant period and accepted in his cross-examination that apart from sweeping the bank premises the concerned workman used to clean tumblers also prior to start of banking hours. Like MW-1 he was also stated about the payment made through vouchers and has further said that in that regard that all the payment vouchers are available in the Bank and if the management thinks proper those vouchers can be produced before the Tribunal. As it has already been observed, the payment vouchers have not been filed from which not only rate of wages rather the total period of engagement of the concerned workman could have also been gathered. Like MW-1 this witness has also at least stated about performance of job by the concerned workman as sweeper-cum-waterboy.

7. In support of the fact that the concerned workman worked in the said branch of the Bank during the aforesaid period and was being paid the wages in the manner as stated above, the main reliance on behalf of the workman is upon two documents which are marked Exts. W-1 and W-2. Ext. W-1 is a letter addressed to the Chairman, Kosi Kshetriya Gramin Bank, Head Office-Purnea dated 11-11-1991 wherein grievance was raised regarding his disengagement and then prayer was made for reinstatement and for allowing him to start working like earlier. This letter contains the endorsement or the recommendations made by the Branch Manager dated 6-12-1991 also. It is mentioned therein that the concerned workman worked in the said branch from 4-9-89 to 3-2-90 and then from 25-2-91 to

21-10-91. It is also mentioned that from 25-2-91 the concerned workman has continuously worked and during that period he was paid 50% of the salary and from his salary provident fund deductions were also made. Addressing to the Chairman the Branch Manager has further observed therein that the concerned workman is hard working, honest and efficient person who worked as messenger. Down below this endorsement there is also signature and seal of the said authority. Ext. W-2 is a document dated 4-9-91 which contains the details about the casual worker. Namely, the concerned workman and the same is on the official pad of the concerned Bank and is under the signature of the Branch Manager Incharge of the concerned branch. In the document it has been acknowledged that the concerned workman was working since 4-9-89 to 3-2-90 and then from 25-2-91 uptill the date on which said document was prepared i.e. 4-9-91. His qualification has been described as matric and as regards rate of wages paid to the concerned workman it is mentioned that he was paid Rs. 10/- per day up to 28-2-91 and then was paid salary as per Head Office's circular from March 1991 uptill that day. Regarding the aforesaid two documents it is significant to mention that those were marked exhibits with consent after waiving the formal proof and as such, genuineness or authenticity of those documents are not in dispute. During the evidence also no suggestion has been given to the workman's witness that those documents are either forged, fraudulent or manufactured. In such circumstances it can easily be inferred on the basis of the contents of those documents and by relying upon the same that the competent authority of the management under whom the concerned workman worked during the relevant period acknowledged the fact regarding the continuous working of the concerned workman during the aforesaid period and also about nature of work being performed by him and the manner in which he was being paid his wages. The aforesaid admitted documents definitely support the stand taken by the workman either in his written statement or in his evidence. Ext. W-3 is NABARD circular dated 7-5-87 which precisely contains that the messengers who are paid on daily wage basis were to be treated as part time regular messenger and were to be paid 50% of the emoluments admissible to a regular messenger. The existence of such a circular or genuineness of the same has not been challenged by the management. It is on the basis of this circular it is said that from March, 1991 onwards the concerned workman was paid 50% of the salary and as regards which endorsement has been made by the Manager Incharge of the concerned branch also in the aforesaid document (Ext. W-2). Interestingly, both the witnesses of the management are silent on this aspect and if their statements are to be believed then the concerned workman although his engagement was paid on daily wage basis only through payment vouchers. In the written statement also there is no any statement to that effect and in rejoinder simply denial was made in the said regard. This apart, as stated earlier also, there is no mention in the written

statement about the nature of work performed by the workman during the period of his engagement. On the basis of the aforesaid two documents (Exts. W-2 and W-3) and evidence led on behalf of the parties the discussions over which have already been made above, it can easily be gathered that very conveniently the attempt was made on behalf of the management to suppress and conceal the real facts which however could not remain concealed and were revealed from the evidence or the materials produced in course of the proceeding.

The management has not filed any document to show either the nature of work performed by the workman or total period of his engagement or manner of payment of wages to him. This apart, few original documents, such as, salary register and provident fund register which were sought to be made available by the workman during the pendency of the present proceeding and as regards which order was also passed by the Tribunal, were also not produced by the management. The workman's witnesses have consistently supported the fact that till 28-2-1991 the concerned workman was paid on daily wage basis but then from March, 1991 onwards he was paid 50% salary which can be evident from the salary register maintained by the management. They consistently supported this fact also that provident fund contributions during the said period was deducted from the salary of the concerned workman and the Provident Fund A/c Number during the proceeding has been provided as NOBR 3702/728. If those two relevant documents, namely, salary register and P.F. Register would have been produced then the same would have clarified the position as far as those relevant aspects were concerned. There is merit in the submissions made in that regard on behalf of the workman that withholding of those documents by the management or non-production of the same by the management creates reasonable doubt about the genuineness of the stand taken by the management and further out of that it can also be inferred that the management deliberately tried to conceal the truth just in order to frustrate the rightful claim of the concerned workman.

From the management's side only few circulars or letters have been filed and mainly on the basis of Ext. M-2 which is a NABARD circular the submission has been made that there is a ban on regular appointment for such nature of job. Having gone through the said document the same does not appear to be of much significance. It is clear from the same that the ban, if at all was imposed, the same was with respect to post of junior clerk-cum-cashier, senior clerk-cum-cashier, field supervisor and supervisors and there is no mention about any restriction made for the appointment of a Class-IV employee, such as, a messenger, sweeper or waterboy. Furthermore, the said circular came into existence much earlier and it has not been urged on behalf of the management by producing any material that if such ban was there in respect of messenger and sweepers also then the same is still continuing or is in force. After taking the

work from the concerned workman for a long period the management cannot reasonably be allowed to get away by resorting to any such circular or by taking shelter behind the said circular which could obviously as stated earlier, has no applicability or significance.

It is not the case of the management that during the relevant period in the concerned branch of the Bank anyone else was also working as Peon or messenger-cum-sweeper for doing the same nature of duty. On this aspect the workman's witness WW-2 has clearly said that during the relevant period there was no any one else working in the said capacity in the said branch of the Bank. As per the workman upon his dis-engagement the management appointed some one else on the said post ignoring the claim of the concerned workman and without giving priority and opportunity to him in the said matter. There is no specific denial in this regard made from the side of the management and only the statement has been made by its witness that few persons whose names have been taken were working from before and it has not been said whether those persons were working from before as casual or regular employees and whether it is a fact or not that a regular appointment was made in place of the concerned workman after his dis-engagement. It has also not been pleaded nor it has come in evidence that presently there is no vacancy on the said post in existence either in the said branch or other branches of the concerned Bank.

8. Thus, in view of all the materials produced or the evidence led it can safely be concluded that the concerned workman, in fact, worked continuously during the aforesaid period as messenger-cum-sweeper-cum-waterboy and in the year preceding to his dis-engagement he had already put in attendance of 240 days and further during the period of engagement initially he was paid at the rate of Rs. 10/- per day but later from March, 1991 till the date of his dis-engagement he was getting 50% of salary of a regular employee of the Bank working on the same post as per the aforesaid circular of the Bank (Ext. W-3). On the basis of the materials there is no difficulty in coming to this conclusion also that despite having worked continuously for 240 days in one calendar year prior to his dis-engagement neither the concerned workman was given notice or notice pay nor any retrenchment compensation was paid to him, as required under the relevant provisions of the Act, prior to his dis-engagement and even at the time of making fresh appointment also he was not given the opportunity or priority. The action of the management, as such, cannot be held to be sustainable in view of non-observance of mandatory provisions, such as, Sec. 25-F and 25-H of the I.D. Act. As such, there is no difficulty in observing that the dis-engagement of the concerned workman clearly amounted to his retrenchment from services, in view of the above.

9. It is apparent from the discussions made above that the management took the works of the aforesaid nature from the concerned workman continuously for a long period and for the services being rendered by him it paid the concerned workman only at the rate of Rs. 10 per day initially and then 50% salary as per the said circular w.e.f. March, 1991. In short, the concerned workman was never paid the wages or the salary which was admissible to a regular employee of the Bank discharging the same nature of duty and further the management never considered it necessary to make the concerned workman permanent or regularise his services even when, as per the workman, several others were shown favour in that regard or were conferred with the status of permanency. Being aggrieved by the management's conduct or attitude when the present dispute was raised by the concerned workman now the management has come forward with several denials and several averments which are either vague or remained un-substantiated, and the discussions as regards which have already been made above. The conduct of the management exhibited so far can only be called undesirable and unwarranted and its all such conducts directly and squarely come within the ambit of 'unfair labour practice' and as such on this score also the concerned workman deserves relief.

10. On the basis of all the aforesaid, it is finally concluded that the concerned workman deserves reinstatement in the services of the Bank as a Class-IV employee, but considering the facts and circumstances of this case and also in view of the fact that nothing has been produced to show that pursuant to his disengagement or termination the concerned workman remained idle all through and was not engaged in gainful services elsewhere, the concerned workman would not have any claim for the back wages from the date of his disengagement or termination of his service.

11. The award is, thus, made hereunder :—

The action of the management of Kosi Kshetriya Gramin Bank in terminating the services of the concerned workman, Nevi Das w.e.f 22-10-91 is not justified and the concerned workman, as such, deserves reinstatement, but without back wages. Consequently, the management is hereby directed to proceed accordingly and reinstate the concerned workman within sixty days from the date of publication of this award.

In the circumstances of the case, however, there would be no order as to cost.

S. H. KAZMI, Presiding Officer.

नई दिल्ली, 26 मार्च, 2003

का.आ. 1220.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल फ्यूल रिसर्च इंस्टिट्यूट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार

औद्योगिक अधिकरण सं. 2, धनबाद-के पंचाट (संदर्भ संख्या 67/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-3-2003 को प्राप्त हुआ था।

[सं. एल-42011/12/94-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 26th March, 2003

S.O. 1220.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 67/96) of the Industrial Tribunal, No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Fuel Research Instt. and their workman, which was received by the Central Government on 26-3-2003.

[No. L-42011/12/94-IR (DU)]

KULDIP RAI VERMA, Desk Officer.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO.2) AT DAHNBAD.**

PRESENT

SHRI B. BISWAS

Presiding Officer

In the matter of an Industrial Dispute under Section 10 (1) (d) of the I. D. Act, 1947.

REFERENCE NO. 67 OF 1996

PARTIES: Employers in relation to the management of Central Fuel Research Institute and their workman.

APPEARANCES

On behalf of the workman : None

On behalf of the employers : Shri B. N. Mukherjee, Advocate.

State : Jharkhand Industry : Fuel Research.

Dated, Dhanbad, the 28th February, 2003

ORDER

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-42011/12/94-IR (DU), dated, the 4th August, 1995.

SCHEDULE

"Whether the action of the management of CFRI in terminating the services of S/Shri A. N. Rai, D. N. Singh, B. Yadav, Y. N. Singh and S. K. Pandey is justified? If not, to what relief the concerned workmen are entitled?"

2. In this reference neither the concerned workmen nor their representative appeared before this Tribunal. However, the management made through appearance in it. It is seen from the record that the instant reference was received by this Tribunal on 28-6-1996 and since then it is pending for disposal. Registered notices were also issued to the workman but inspite of the issuance of notices the workman side have failed to turn up. In terms of Rule 10B of the I. D. Central Rules, 1957 submission of W. S. by the concerned workman within 15 days is a mandatory one. The concerned workman not only violated the said provision of the Rules but also did not consider necessary to give any response to the notices issued by this Tribunal. In natural course the question which will arise is what will be fate of the reference made by the Ministry for its disposal. The reference is made on the basis of dispute raised by the concerned workman/union. Naturally responsibility rests with the concerned workman/union to assist the Court to dispose of the reference in issue on merit. In view of the decision reported in 2002 (94) FLR 634 it will not be just and proper to pass 'No dispute' Award when both the parties remain absent. There is also no scope to answer the reference on merit in absence of any W. S. and available documents. There is no dispute to hold that when any reference is made it is expected to be disposed of on merit but when the parties do not take any step or do not consider even to file W. S. such expectation to dispose of the reference on merit comes to an end. It is not expected that for years together the Court will pursue the matter suo moto with the expectations for appearance of the parties inspite of issuance of registered notices. As per I. D. Act the workman, excepting under provision of Section 2A is debarred from raised any industrial dispute. The disputes are mainly raised by the Union for their workmen. These unions inspite of receiving notices did not care to appear before the Court for the interest of the workman and as a result they have been deprived of getting any justice. Until and unless the attitude of the union is changed I consider that this uncalled for situation will persist. Definitely it is the duty of the Court to dispose of the reference on merit but it depends on the cooperation of both sides. Here the record will clearly expose that sufficient opportunities had been given to the parties but yielded no result. This attitude shows clearly that the parties are not interested to proceed with the hearing of the case for disposal on merit.

In view of the facts and circumstances, I also do not find any sufficient reason to drag on the case for an indefinite period. Accordingly as there is not Scope to dispose of the reference in question on merit, the same is closed.

B. BISWAS, Presiding Officer

नई दिल्ली, 27 मार्च, 2003

का.आ. 1221.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पोस्ट मास्टर

जनरल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, अहमदाबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-3-2003 को प्राप्त हुआ था।

[सं. एल-40011/12/95-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 27th March, 2003

S.O. 1221.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Ahmedabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Post Master General and their workman, which was received by the Central Government on 27-3-2003.

[No. L-40011/12/95-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE SMT. N. J. SHELAT, PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL (CENTRAL),
AHMEDABAD.

Reference (ITC) No. 18 of 1996

ADJUDICATION

BETWEEN

Post Master General, Gujarat ... First party

AND

The Workman employed under it. ... Second party

In the matter of terminating/discontinuing/refusing giving employment duties to Shri S.M. Navade, Postman.

Appearances : Shri R.S. Munshy, learned Advocate for the First party.

AWARD

By an Order No. L-40011/12/95-I.R. (DU), dtd., 24th April, 1996, the Desk Officer, Ministry of Labour, Government of India, New Delhi has referred an industrial dispute as stated in the Schedule of above order for adjudication u/s 10(1) of the Industrial Dispute Act, 1947, initially, to the Industrial Tribunal of Shri P.R. Desai and thereafter, finally, it was transferred to this Tribunal.

2. The second party—workman has filed his statement of claim vide Ex. 8 praying for reinstatement with full back wages, benefits and all other incidental allowances and promotions without loss of continuity of service to the concerned workman, Shri G.S. Dudhwala.

3. The first party has filed its written statement at Ex. 14, inter alia, denying various contentions raised by the second party workman and has prayed that the reference deserves to be dismissed as the claim made by the second party workman is not true and legal. The first party has pointed out in their written statement that in Para-11 (B) of the statement of claim the name of the workman is shown as G.S. Dudhwala whereas the reference is of Shri S. N. Nalvade.

4. On 14-2-2003, the learned Advocate for the first party has filed application Ex. 15 praying that the reference deserves to be dismissed for default as the workman is not remaining present to prove his case.

5. An urgent notice was issued by Regd. post to the second party workman which was duly served to him vide Ex. 19 to remain present before this Tribunal on 28-2-2003.

6. On 28-2-2003 when the matter was called out, neither the learned Advocate for the second party workman was present nor the concerned workman himself was present before this Tribunal. The learned Advocate for the first party, Shri R.S. Munshy was present before this Tribunal and was heard.

7. I have gone through record and papers on the case and have considered argument of learned Advocate,

Shri R.S. Munshy for the first party and found that the present reference (ITC) No. 18/96 was dismissed for default on 30-4-97 vide Ex. 5. Vide Ex. 6, the reference was restored on 24-8-2000. When the matter came up for hearing before this Tribunal on 28-2-2003, no one was present on behalf of the second party workman inspite of the fact that the notice was duly served to him vide Ex. 19. It is the duty of the concerned workman to remain present before this Tribunal to proceed with the matter to prove his case which the second party workman has failed to do. In this view of the matter and under the facts and circumstances of the case, I pass following order :—

ORDER

The action of management of Chief Post Master General, Gujarat Region, Ahmedabad, Post Master, Raopura Branch, Vadodara & SSP, Vadodara East Dn., Vadodara in terminating/discontinuing/refusing giving employment duties to Shri S.M. Navade, Postman is justified and legal. The concerned workman, Shri S.M. Navade is not entitled to any relief. No order as to cost under the facts and circumstances of the case.

Sd/-

Secretary

Ahmedabad, 13 March, 2003.

N. J. SHELAT, Presiding Officer